

CLERK'S COPY.

Vol. VII
TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1942.

No. 721

THE NORTH AMERICAN COMPANY, PETITIONER,

vs.



SECURITIES AND EXCHANGE COMMISSION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 10, 1943.

CERTIORARI GRANTED MARCH 1, 1943.

United States Circuit Court of Appeals
FOR THE SECOND CIRCUIT

October Term, No. —

THE NORTH AMERICAN COMPANY,

Petitioner,

SECURITIES AND EXCHANGE COMMISSION,

Respondent.

TRANSCRIPT OF RECORD
TESTIMONY
Volume VII
(Pages 2500 to 2871)

ON PETITIONS FOR REVIEW OF ORDERS OF SECURITIES
AND EXCHANGE COMMISSION

TABLE OF CONTENTS

Volume VII.

	PAGE
Testimony	2500
RESPONDENTS' WITNESSES:	
Charles E. Michel:	
Direct by Mr. Hamilton.....	2501
Cross by Mr. Binford.....	2576
Redirect by Mr. Browning.....	2612
Stanley Stokes:	
Direct by Mr. Hamilton.....	2616
Cross by Mr. Binford.....	2619
Redirect by Mr. Hamilton.....	2634
William McClellan:	
Direct by Mr. Browning.....	2636
Cross by Mr. Odell.....	2720
Redirect by Mr. Browning.....	2763
Recross by Mr. Odell.....	2766
Elmer L. Lindseth:	
Direct by Mr. Browning.....	2789
Herbert C. Freeman:	
Direct by Mr. Hamilton.....	2803

2500

7498

BEFORE THE

Securities and Exchange Commission

Docket No. 59-10

IN THE MATTER

of

7499

THE NORTH AMERICAN COMPANY, *et al.*

Hearing Room 1101,
Securities and Exchange Commis-
sion Bldg.,
Washington, D. C.,
Thursday, November 7, 1940.

Met, pursuant to adjournment, at 10:10 o'clock a. m.

7500

Before: W. W. SWIFT, *Trial Examiner.*

Appearances:

S. PEARCE BROWNING, JR., and CHARLES S. HAMILTON, JR.,
of Sullivan and Cromwell, 48 Wall Street, New York
City, Attorneys for the Respondents.

RALPH C. BINFORD, Attorney for the Securities and Ex-
change Commission.

Charles E. Michel—By Respondents—Direct

7501

PROCEEDINGS

The Examiner: The hearing will come to order.

Mr. Hamilton: Mr. Michel!

Whereupon, CHARLES E. MICHEL, called as a witness on behalf of the Respondents, being first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Hamilton:

7502

Q. Will you give the reporter your name and address?
A. Charles E. Michel, 5720 Julian Avenue, St. Louis, Missouri.

Q. Please state your present connection with Union Electric Company of Missouri? A. I am vice president in charge of sales.

Q. And explain, if you will, the duties and functions which you perform? A. As vice president in charge of sales, it is my duty to formulate the sales promotional plans, to organize and control the sales department, to put into effect the promotional plans that are designed by the men under my direction, and to handle the service to the customers, including dealings directly with the customers in connection with the securing of contracts, and clearing up any of the difficulties that may arise between the company and the customers.

7503

—3,175—

Q. Those services extend to the entire Union Electric Group, do they not? A. Yes, sir; they do.

Q. Will you describe briefly your career with the Union Electric Company of Missouri? A. I entered the service of

7504

Charles E. Michel—By Respondents—Direct

the company in 1907 as manager of the electric automobile department; in 1913 I was appointed manager of the appliance department; in 1916 I was appointed manager of office sales; in 1918, acting sales manager; in 1919, sales manager—at which time I was also assigned to organize and develop the merchandising business for the Milwaukee Electric Railway & Light Company. I continued in the dual capacity until 1924, at which time I gave up the Milwaukee work; and in 1935 was elected vice president in charge of sales.

7505

Q. Now if you will, please state your education? A. The early part of my education was in the private schools in St. Louis where I was born. Then, from the 8th grade into the high schools, I attended the public schools of St. Louis. Then I took special courses in mathematics and chemistry, and afterwards entered the Virginia Military Institute at Lexington, Virginia, and graduated from that in the engineering course.

Q. You were born in St. Louis, were you not? A. Yes,

—3,176—

sir; I was.

7506 Q. And you have lived there practically all your life?

A. Yes.

Q. During the course of your services with the Union Electric Group, have you received any award of any character? A. Yes, sir; I have. In 1933, I received the James H. McGraw Award for Cooperation. Do you care to have me give the citation of that award?

Q. Give it in substance, very briefly. A. Very briefly, it is:

“In recognition of constructive contribution to the advancement of the cooperation of the electrical industry

Charles E. Michel—By Respondents—Direct

7507

through your creative leadership in coordinating the development of the electrical market in St. Louis and inspiring the electrical men of his State to united action in the promotion and defense of their industry."

Then in 1932, as chairman of the St. Louis Electrical Refrigeration Bureau, we won the highest award for national bureaus throughout the United States. At that time they assigned a quota to each of the bureaus throughout the country, and the St. Louis bureau doubled its quota, which was the largest doubling of any utility bureau in the country, and when I say "utility bureau", that means that it was made up not only of the utility men, but of all the dealers handling electrical refrigeration.

7508

—3,177—

Q. Is the McGraw Award, of which you have spoken, sponsored by the Electrical World? A. By Mr. McGraw, the publisher of the Electrical World, yes, sir.

Q. Now will you state in general the policies of the sales department of the Union Electric Group? A. The general policies of the group are the securing of a constantly expanding use of service by existing customers, and the promoting of such growth in the number of customers as the territorial conditions permit, and the protection of existing loads.

7509

The general policies are that expanding use of Union Electric Group's service by existing customers must come largely through the purchase by such customers of additional utilization equipment; that there are hundreds of commercial institutions which can be induced to offer electrical merchandise for sale to the customers of the Group; that the

7510

Charles E. Michel—By Respondents—Direct

greatest volume of sales of electrical merchandise can only be achieved by giving maximum stimulation and cooperation to such commercial establishments; that one of the essentials in a cooperative program is aggressive leadership along sound, ethical sales and merchandising lines, which give full freedom to cooperating agencies to conduct their business in the manner they decide upon without interference from us; that every legitimate manufacturer, dealer, product and branch of the cooperating industry be permitted

7511

—3,178—

to participate in business created by the Group's promotional program, on the same terms as all competitors, and that the correlated business, not directly interested in the sale of electrical merchandise, can, under proper stimulation, be helpful toward the success of such an operation.

7512

Q. Before getting into any extensive description of the various programs pursued, I think you might state, if you will, the general nature of the sales department from an organizational standpoint, that is, where authority is concentrated and where functions are performed separately from a central headquarters? A. The sales department of the Union Electric Group is made up of men located at headquarters in St. Louis, as well as at the other offices maintained by the Group throughout the system.

In the City of St. Louis there are 219 such employees; in St. Louis County there are 51; in the outlying Missouri properties there are 32; in the Lakeside property there are 2; in the Illinois properties there are 21; and in the Iowa properties there are 10—or a total of 335 men and women.

Charles E. Michel—By Respondents—Direct

7513

Operated in conjunction with these forces are 26 stores. These stores render all classes of utility service to the customers in the districts in which they are located.

Q. Now is this headquarters staff divided up into a num

—3,179—

ber of divisions? A. Yes, sir. The headquarters staff must be prepared to serve all the divisions of the Group. There being comparatively few customers in the outlying districts, those districts cannot afford to have on their staff, and located right in those districts, the rather expensive type of man that is necessary to handle the many different types of electrical development and sales that present themselves.

7514

There are 5 divisions in the headquarters staff:

Utility sales work, which constitutes the sales to our commercial, residential and industrial customers.

The merchandising sales force, which handles the sale of electrical merchandise to the residential group.

The dealer sales group, which handles the cooperation between the company and the extensive dealer organization that is cooperating with the company throughout its district in the prosecution particularly of merchandising sales.

7515

The rural group, which has charge of the development of our rural territory.

The advertising group, which has charge of the advertising for all of the districts, in cooperation with each of the groups that I have mentioned before.

Q. Now, if you will, state what the Sales Department does with respect to promotion of residential service? A. In carrying out the policies that we have in connection with

—3,180—

7516

Charles E. Michel—By Respondents—Direct

the development of the residential business, in cooperation with the electrical dealers throughout the district, the Union Electric provides a sound leadership by conducting aggressive merchandising operations in its own stores.

Now the value of that operation is many-fold, not only to the company, but to the customers and to the cooperating dealers alike, in that it provides throughout the system model displays for the benefit of the public and the dealer, and these are located in our own show rooms, but many of 7517 them are made available to the dealers.

It permits the introduction and the promotion of new merchandise for which a market has not as yet been created, and which profit-minded dealers would be unwilling to promote.

I might give an example of that in the electric range. Up to a period of about 5 years ago, all electric ranges sold in our district were sold by the Utility Company, and the sales were very small, running about 250 ranges a year. At that time we decided to promote the range through the dealer as well, set up sales programs and the advertising programs so that this dealer could cooperate to his advantage. 7518

The sale of ranges has jumped by leaps and bounds, and today, after just those short few years, the dealers are selling 60 per cent. of all of the ranges sold in the district.

The residential promotion also permits the formulation

—3,181—

of campaigns of various kinds, and assures their success by aggressive selling methods. By that I mean that our experience in the operation of the stores, in selling ourselves, gives

Charles E. Michel—By Respondents—Direct

7519

us the necessary background in order to accomplish these facts:

It permits the constant stimulation of the market through advertising, and other publicity.

It sets standards of fair advertising policies.

The elimination of excessive trade-in allowances, and the maintenance of sound financing plans. It does that by example only.

It stimulates the formation of manufacturers' and distributors' sales campaigns for dealers on a system-wide basis, without which the sales would not be comparable to what they are today.

It gives us valuable first-hand information on the problems of the cooperating dealers, and provides a proving ground within our own control, of the effectiveness of our various promotional plans.

It gives us, as a promoter—and that is what we are in connection with the sale of this merchandise—the necessary first-hand information on public preference and acceptance, and through the negative reactions of the public to certain policies and merchandise, divulges impediments to the substantial sales so necessary as a guide in formulating promo-

7520

tion plans for the dealers.

7521

Q. Please state what the sales department does with respect to commercial and industrial promotion? A. In the commercial and industrial fields, load-building promotional operations are also constantly under way. In these fields the Union Electric Group sells no merchandise. It directs its efforts exclusively to the development of the market and

—3,182—

7522

Charles E. Michel—By Respondent's—Direct

the promotion of the merchandise that is offered for sale by selling agents appointed directly by the manufacturers or by the jobbers.

The promotional plans in these fields are scheduled with respect to customer groups as well as cooperating agencies.

Now in the promotion of that sort of merchandise, it is not possible to use the same methods, the same shot-gun methods that are used in the promotion of merchandise to the residential customer. You have to be selective as to the group of customers that you reach, as well as the group of dealers that you reach in the promotion of each of the different pieces of merchandise.

As an example, the customer that is interested in, for instance, some commercial cooking device, and the jobber and the manufacturer that is interested in that particular device, are totally different from the customer who may be interested in some large electric furnace.

The consequence is that each one of the men that is de-

—3,183—

7524

tailed in this work must have their groups of customers so drawn up that they may be reached by direct mail or otherwise, and by solicitation from the cooperating dealer group, without a lot of lost time in calling on customers not interested in the particular devices that are under promotion.

The promotion in these deals is active and aggressive; it employs advertising in all of its forms, although not usually newspaper advertising; dealer education; group demonstration and display meetings; demonstration installations; and the like.

Q. You have spoken of the extent of the sales department and of the number of divisions within it. Are the persons in charge of those divisions for the most part college graduates? A. The people in charge of the different divisions that I have spoken of are charged with the responsibility of advising the public in the economical use of electric service. I have always felt that those men and women charged with that responsibility must be very capable. In the group that I have mentioned, we have 40 men and women who have college degrees.

I might give an example. The man in charge of our industrial heating division, which has to do with the sale of electric furnaces and all kinds of heating apparatus, is a B.S. in Electrical Engineering, and Ph. D in Physics and

—3,184—

Chemistry.

One more example. The two men that are in direct charge of the development of our rural service division, and rural customers, hold a B.S. in Agriculture.

Q. Now state, if you will, what the industrial sales division does, and what its functions are? A. The industrial sales division is a combined sales and service organization responsible for all negotiations with the larger industrial and commercial customers of the company.

They handle all of the negotiations with customers having a connected load of 25 kilowatts and up. Of course, their prime purpose is the building of the load. They also, in connection with that work, are expected to build the good will and coordinate the customer-company relations. They are supposed to make their services so valuable to the cus-

7528

Charles E. Michel—By Respondents—Direct

tomer that when problems arise the customer will consult the company.

The activities of the division are to conduct all negotiations with customers of 25 kilowatts connected load and above, handle the execution and cancellation of their contracts for both new business, for successor orders, for change of rates when indicated that such change is to the advantage of the customer; and to make regular and frequent calls.

They have another very important job, and that is the

7529

—3,185—

contact with consulting engineers, architects, builders, contractors, and others, with reference to the new construction and changes in customers' conditions.

Very frequently it is necessary that those men guide the plans of an organization in the early stages of its development. Otherwise, they will provide service for the wrong type of the electric service that is available in the district, and will not take advantage, possibly, of the proper meter combinations to produce the lowest rate for the customer. That is one of the important duties of those men.

7530

After the arrangement has been made through these consulting engineers and the customer, their job is to expedite the service connections, and they also have the important duty of handling the complaints and settling misunderstandings with these customers.

They again have a most important function, and that is to assist the customer to utilize electric service to his best possible advantage. That may have to do with actual changes in the plant layout, the type of drive, the type and

Charles E. Michel—By Respondents—Direct

7531

size of motors, the method of running the load of the customer, and so forth.

An example, briefly, I might give at this point is one that we had with a large baking company. Their demand was rather large, demand for electric service, and their bill was correspondingly high.

—3,186—

One of the industrial engineers found, upon surveying the plant, that that customer was charging his electric trucks at hours at which it was not necessary that he do so. In other words, he was putting the charging load on top of his ordinary manufacturing load, and thereby doubling his demand, which carries, under demand schedules, a higher charge.

7532

By working with the engineer he was able to have that man schedule the charging of his electric automobiles in what we would normally call the off-peak hours in so far as his business was concerned. In other words, he would come on—if the business closed down at 5—he would throw his trucks on after 5 o'clock and run them before the business started in the morning. This particular business had a type of load that scattered throughout the 24 hours of the day, and it was very necessary that charts of operation be prepared.

7533

After the completion of the study, and working with the man in charge of that work, the customer cut his bill with us very sharply. He has since told us that in his plants, located throughout the United States, he has had similar studies made and in his electric services he is now saving \$50,000 a year due to that operation.

7534

Charles E. Michel—By Respondents—Direct

These engineers also have the important duty of bringing new developments and improved ideas and methods to each of the manufacturing groups with which they deal.

The general power sales group consists of five experienced industrial sales engineers for the city and county of

—3,187—

St. Louis, one for the outlying Missouri territories, one for the Illinois territories, and sales engineering assistance, whenever desirable, in any and all locations of the company

7535 from the Keokuk district down through the rural districts of Missouri.

Q. Now, if you will, state what the commercial sales division does, and what its functions are? A. The commercial sales division is a combined sales and service organization, which conducts the business of sales, service and promotional load-building with commercial customers of the Union Electric Group.

The organization in the City of St. Louis consists of 21 capable and experienced salesmen. Each has from one thousand to two thousand customers to look after.

7536 In St. Louis County, it consists of two trained load promotional salesmen.

In outlying Missouri, Illinois and Iowa, the work corresponding to that performed by the commercial salesmen is under the direction of the district manager in these different districts. This manager has, under his control, a branch manager and an office manager, commercial and industrial representatives, a new business manager in certain cases, and they conduct that business with the direct help of the St. Louis organization in that, wherever there is a job

Charles E. Michel—By Respondents—Direct

7537

that comes up that requires attention, which they are not capable or feel that they are not capable of giving, the St.

—3,188—

Louis group go into the territory and do the work.

The functions and activities of the division are much along the same lines as those I have described for the industrial sales force, with the very sharp distinction that they are handling the small commercial customer. The majority of their work is with customers that have loads up to a maximum of 25 kilowatts, but I would say on an average of 5 or 6 kilowatts, and consequently they are people who do not have in their employ, as a rule, capable engineers to advise them, and do not employ consulting engineers as a general thing. So that these men must function for that customer in those particular lines.

Their duties are to follow up the calls; the building permits; newspaper real estate notices or items on new or expanded business; to conduct sales negotiations with third parties involving the customers.

I have explained the general methods.

Assemble information for the orderly extension of the transmission facilities. 7539

Study the rate applications in securing contracts.

Promoting load—and this work consumes a sizable portion of their time.

They are expected to promote the lighting, commercial cooking, air-conditioning, and electric heating in the stores

—3,189—

of their customers when, in their judgment, it can be done to the advantage of the customer. Their method of work

7540

Charles E. Michel—By Respondents—Direct

there is to develop the prospect to a point where a specialist is necessary to give final and conclusive evidence as to the presentation that has been made, and actually close the order for the work when the specialists are called in from the sales department.

7541

They also attend meetings and school demonstrations and displays, particularly in lighting work; follow-up or good will calls on customers; conduct interviews to uncover or develop information where customers are considering power other than utility service; conduct business with chain stores and chain service organizations.

This is a specialized group. We find that the chain stores usually have, in their employ, engineers and others who are highly specialized in their different branches. Our salesmen must be fully capable of meeting those men on their own ground, and discussing their problems in the use of electric service with them, and as a result we have found it necessary to develop two men who handle the chain stores exclusively.

7542

These salesmen also assist the customer in locating and avoiding waste. They handle lighting surveys, they check meter tests on equipment suspected of wasting electric energy; and other forms of service to avoid waste.

—3,190—

Q. How is the residential service division organized, and what does it do? A. Well, the division handles service and load-building negotiations with our residential customers. There are 10 lighting women advisers who make verbal recommendations for correct lighting, and in conjunction with two salesmen, make calls on the customers in the city.

Charles E. Michel—By Respondents—Direct

7543

Q. This is the City of St. Louis? A. Yes. There are two home-lighting women advisers who devote their entire time to home-lighting in St. Louis County and the outlying districts of the group.

There are two salesmen, whose duty it is to apply proper rates and handle other calls requiring personal contact with the customers, including line extensions, the temporary service connections for builders, new permanent business, and so forth.

A development engineer calls on architects and builders and cooperates with them on the adequate wiring, lighting, kitchen planning, and the general use of miscellaneous electrical appliances.

One woman lecturer devotes her entire time to lecturing on the subject of "better light, better sight" before any type of group desiring her services.

The division recommends various uses of lighting and appliances, and leaves the selection of the dealer to the

—3,191—

customer.

Inquiries about wiring are answered by giving the customer helpful advice on the subject, and then referring them to a licensed contractor of their own selection.

The operation of the division is based on the requirements, and calls are routed as to their location, except where urgency requires immediate attention.

The home-lighting advisers are assigned to districts throughout the city and the county, and calls are made following the regular meter routes. The adviser carries sufficient equipment to measure and demonstrate lighting of all

7545

7546

Charles E. Michel—By Respondents—Direct

rooms and completes her call with a written recommendation. All requests or complaints of the customer are reported and followed to a satisfactory conclusion, many of which result in customer good will.

The lighting advisers are also available to dealers for store demonstrations, exhibits and personnel training.

7547

For competitive and routine calls by the two salesmen, the city is divided into two parts. Each salesman handles all routine calls in his district, follows all calls to completion, seeking to develop closer relationship with the customer in the conduct of the business of the company.

All calls in relation to the district are given to the salesmen daily. Telephone orders for new connections are received and routed by the clerical division.

—3,192—

7548

The development engineer calls on architects, builders, homeowners, urging more use of electrical equipment and wiring where it is indicated. This same engineer advises the consulting engineers and the customers as to the services available from the Adequate Wiring Bureau of St. Louis, an organization which will check and suggest the proper layout of wiring for any class of home or store.

Now the residential service division has efficiently handled customer requests, educational promotions, and routine calls, which produce better living electrically for the customer, and improve customer relations and revenue for the Union Electric.

The home-lighting advisers in St. Louis and in St. Louis County, between October, 1934, and December, 1938, made 22,975 written recommendations for better home lighting.

Charles E. Michel—By Respondents—Direct

7549

In the cities of St. Charles and Washington, located in the outlying districts of Missouri, approximately 3,000 demonstrations were made since June, 1938. Two salesmen make an average of 5,000 calls per year, consisting of calls about customers' relations, explanations, and advice on problems relating to rates, bills, availability of service, wiring, and so forth.

Lectures and demonstrations in the rural territory were made by the lighting advisers in cooperation with the rural service division.

7550

—3,193—

Various other lectures, meetings and demonstrations with doctors, nurses, blind societies, dealers, and trade organizations, were conducted by the supervisor for the training and the education in relationship to light and vision.

Q. What does the merchandising division of the Group do? A. The merchandising division of the Union Electric Group is responsible for the sale of all electrical merchandise sold by the company to its residential customers and performs certain load-building and service transactions for small commercial and residential customers.

7551

It is charged with the offering of leadership in cooperation with the dealer sales counselor, to all interests of the local electrical industry engaged in selling electrical merchandise to the residential customers.

It is also charged with the development, test and formulation of plans for the expanding use of service by the residential customers through increased use of appliances in the home.

7552

Charles E. Michel—By Respondents—Direct

It supervises the operations of all of the stores handling all types of customer transactions for residential and small commercial establishments.

It sells incandescent lamps or renews incandescent lamps for residential customers. More than 150 are employed in the merchandising division of the Union Electric Group.

—3,194—

The Group has been eminently successful in selling electrical merchandise to the residential customers. During the 7553 year 1939, they sold approximately \$1,000,000 in electrical merchandise to the customers of the Union Electric Group, and this represents approximately 7 per cent. of the total domestic electric appliance business done in our territory.

Nearly 13,000 electric refrigerators were sold by the merchandising division during the period 1930 to 1939, inclusive. This is approximately 5 per cent. of the refrigerators sold to the residential customers.

7554

Nearly 7,000 electric ranges have been sold to the residential customers during the period from 1935 to 1939, and this is more than 30 per cent. of the ranges sold during this period.

It is estimated that the Union Electric residential customers purchase during an average year more than 80,000 small electrical appliances from the merchandising division. It is estimated that nearly 30,000 I. E. S. or I. E. S. type of lamps, have been sold during the period 1934 to 1939. I might explain that "I. E. S." means Illuminating Engineering Society, who have approved certain types of incandescent lamps and fixtures for the proper use in seeing, and these lamps usually use bulbs of from 100 to 300 watts capacity.

Charles E. Michel—By Respondents—Direct

7555

They bear the label of the I. E. S., and in all cases where they do bear that label, they have been passed through a laboratory to see that they do conform with the specifications of those lamps.

—3,195—

The personnel of the stores, of which there are 26 in the Group, sold and renewed nearly 2,000,000 incandescent lamps during the period of 1939. They handled more than 75,000 applications and disconnections, that is, applications for service, and disconnections from service.

7556

They handled many thousands of customer complaints, appliances repairs, and other adjustments, and they sold in these stores approximately \$800,000 worth of the \$1,000,000 worth of appliance business done by the Group.

Now, continuous training of all employes of the merchandising division is performed by the supervisor. The supervisor is instructed by the merchandising manager and assistants, in cooperation with other divisional managers. In other words, his job is to train the merchandising men in all stores in all places throughout the Group.

7557

The Union Electric Group, through its direct merchandising operations, and in cooperation with the electrical industry, publicizes or otherwise brings to the attention of thousands of its customers annually, the opportunities for use of electrical merchandise in the home.

The direct merchandising operations, it is endeavoring to make all of its promotional efforts timely, taking advantage of seasonal opportunities for business.

In all of its direct merchandising activity, it ties in

—3,196—

7558

Charles E. Michel—By Respondents—Direct

the distributor and the dealer to all promotions conducted by the company's merchandising division. The company will not knowingly enter into any promotion by its merchandising division, in which the distributor or the dealer cannot actively participate.

7559

During the 10-year period from 1930 to 1939, the merchandising division has run more than 6,000 advertisements amounting to more than 2,600,000 lines of advertising, and during this period of time nearly 1,500,000 pieces of literature have been distributed to the customers.

A coordinated operation of the Union Electric Group's merchandising division affords certain economies and uniformities of operation that could not be achieved otherwise. The merchandising manager and his assistant plan and develop all of the merchandising programs conducted by the company's merchandising division.

The company's own participation in appliance merchandising facilitates effective dealer cooperation through a realistic understanding of the dealer's problems.

7560

The coordinated method of operation of the Union Electric System brings to the rural residential customer the same selection of merchandise, the same terms of payment, and the same standards of quality, and the same excellence of service, that are afforded the larger urban centers.

Without the coordination of effort, and integration of operation, the rural residential customer would be deprived of some of these benefits.

The merchandising division avails itself directly of the services of the home service division of the company, which

is made up of the home economists, whose duty it is to educate the public in the use of electrical devices in the home. It is not a selling organization and has no connection whatsoever with sales, and is purely an educational organization.

Demonstrations of electrical appliances are conducted in the company's home service kitchen, in branch stores, in neighborhood theaters, and in meetings of women's organizations, clubs, schools, home shows, county fairs and other appropriate places.

7562
Menus are prepared and tested for distribution to the company's customers. Customers are assisted by the home service division in the modernization of their kitchens and their laundries, and in the selection of other appliances necessary to complete these units.

One of their important duties is the testing of new merchandise submitted by the manufacturers.

It has saved us from making some very serious mistakes in our general promotion plans.

I may mention one example there, just to show what that was.

7563
A manufacturer submitted a small portable oven that had
—3,198—
a great deal of customer appeal. Of that I was personally sure. I felt confident that it could be sold in very large quantities, providing always that the merchandise itself was right.

I placed an order with that manufacturer for a substantial number with the proviso that the merchandise be submitted by sample, and the order was to stand if it passed the home service division.

7564 *Charles E. Michel—By Respondents—Direct*

On test, this small portable oven could not pass our home service women. The distribution of heat within the oven was totally wrong, and the product coming out of the oven was not uniformly cooked and browned. The matter was fought through for a long time, and that particular manufacturer discontinued that model. Others have been made since that, which do a satisfactory job along the lines of cooking, but I attribute much of the final excellence of the article to the determined position taken by our home service department in refusing to let the item go across for sale through our sales department.

7565 Now, I might mention another item in there, which shows something of what the department is doing in connection with some of the larger load building items.

We have at the present time some 25,834 electric ranges on our lines. That represents a saturation for the Union Electric Group of approximately 8.3 per cent. We have sur-

veyed these ranges carefully by putting meters on 651 of them, and taking readings over a sufficient length of time to 7566 determine the average consumption. We find that the average consumption per electric range is 95.8 kilowatt hours per month.

We also find that the cost per kilowatt hour for cooking in the district averages 2.23 cents per kilowatt hour.

In the case of the electric refrigerator, the total installations made in our territory are 292,191. That gives us a saturation percentage of approximately 87 per cent. The figure is made up of our known sales plus the sales that are reported to us as made in our district by distributors. Once

—3,199—

every six months every distributor doing business in the territory gives us a figure on what his sales to dealers in our territory were, and that is taken as the figure that they have sold.

The average use per electric refrigerator as of today I estimate as 30 kilowatt hours per month, and under the second step of our residential rate, of $2\frac{1}{2}$ cents per k. w. h., that means that it costs approximately 70 cents per month to operate an electric refrigerator in the territory.

Q. Are there various specialists whose services are available to these several divisions? A. I have explained the general sales work to the industrial and the commercial and the residential customers.

~~—3,200—~~

Now, when it comes to certain types of installations, it is unreasonable to expect even a well informed salesman to have all of the necessary information in order to do an A-1 job on other types of promotion. The result has been that we have built up, in the Union Electric Group, a series of specialists on the following items: lighting; industrial heating; commercial cooking; air conditioning; and isolated plant replacements.

In those divisions men particularly qualified for the work that they have to do have been employed, and it is their job to know completely the subject with which they deal. They are of great value in the education of our customers through the opportunities and advantages afforded by the use of purchased electricity.

Without such education, the maximum opportunities for promotion would not be realized. They are particularly valuable in the less populous centers served by the Union Electric

7570

Charles E. Michel—By Respondents—Direct

Group where there would otherwise be an insufficient number of customers to warrant the employment of individual experts.

Now, I think that a few words with reference to these several divisions might be pertinent at this point.

The lighting division consists of an organization having two broad responsibilities, the promotion of improved industrial and commercial illumination, and the negotiations

—3,201—

7571 concerning street lighting.

The organization consists of seven trained specialists who negotiate the illumination sales, promotional work on the entire system.

In the industrial and commercial fields, the men in the industrial and commercial staff are constantly making surveys of their own to inform these specialists as to the opportunities for load building within the stores of their customers, and it is then the job of these specialists to supply information on all the problems involved to the customers, as well as to the salesmen.

7572

They have the job of assembling the necessary information from surveys, and have today, for instance, one of their important duties, the guidance of our customers in connection with the complicated fluorescent lamp. Their job is to contact the architects, electrical contractors, builders, owners, illuminator supply sources, the jobber and the wholesaler, the manufacturer, and so forth, in assisting in the solving of the customers' illuminating problems.

What they really do is to supply a consulting illuminating service to the customer. That covers more than going into the details.

Charles E. Michel—By Respondents—Direct

7573

They do prepare all the engineering studies and the preparation of specifications and recommendations for the customer and for the dealers' prospects as well.

—3,202—

Q. Now, what do these specialists do with respect to street lighting problems? A. The street lighting problem is a very specialized operation that is handled by the lighting division, and rightfully so because of the intricate nature of the work involved, not only in so far as the equipment is concerned, but in so far as the dealings are concerned.

7574

The illuminating engineer in charge is personally responsible for all of our street lighting work. His procedure is to go into the city—I am speaking now generally of the smaller cities, not of one like the city of St. Louis that has its own illuminating engineering employes—his duty is to survey that city and to lay out scientifically the illuminating system for the city, which includes a survey of major highways, minor highways, and so forth; and the specifications of the distance between lamps, the size of lamps, and so forth.

Once that has been done, and the lamps spotted on a map, it is that man's duty then to present it to the proper public official, as well as to the municipal groups that have the interests of the city at heart, to discuss with them the possibilities of growth in certain districts, or the dropping off of business in certain districts. That has a direct influence on the type of illumination that he might recommend.

7575

After all these different thoughts have been coordinated,

—3,203—

and the final map prepared, it is then his duty to make the presentation before the citizens of the town, let them know

7576

Charles E. Michel—By Respondents—Direct

just exactly what has been suggested, and also to the municipal authorities who have to pass on whether or not the illumination shall go in. And they handle it through from that point until the business goes in.

After once gone in, it is that man's duty, with his assistants, to consistently follow up those street lighting installations and to watch out for changes in business conditions, changes in the type of business on different thoroughfares; and to make recommendations for corresponding changes in the illuminating lay-out, as the business changes take place.

7577

Q. What does the industrial heating division do? A. The industrial heating division's job is the building of the load through the application of electric heating to industrial processes, where such applications result in economies or other advantages to the industrial customers.

7578

There is a large number of applications of electric heat that can and are made to industry to the advantage of, not only our company, but to the customer as well. I might speak of just a few.

The melting of gray iron has been one very important development. Back many, many years ago, St. Louis was one of the first cities to have the installation of a gray iron

—3,204—

melting furnace made. We cooperated very closely with the customer, he was not at all sure that it would be a successful operation, but it has made that customer into a very successful operation.

A later development, for instance, has been the infra-red heating, the application of heat properly directed and con-

Charles E. Michel—By Respondents—Direct

7579

trolled through the use of the carbon lamp. The field is absolutely unlimited. It was a type of development that took place originally in the four factories, and which has been thrown open to the public as a whole. Our men are today charged with the handling of the application of that important development. It is only a young development, just a few years old.

The activities are the conducting of direct-by-mail educational campaigns on industrial and commercial customers, of which there are approximately 700 on the Group's lines that, in one form or another, may benefit from the application of industrial heating.

7580

Personal calls are made on each lead to study the problems and to make recommendations.

Demonstrations of heating equipment are made in customers' plants, where that is indicated.

For instance, in the small midget type heaters, as we call them, the man has a kit, and he goes from one organization to another, after the proper surveys have been made, to

—3,205—

indicate that some type of industrial heating might be used to advantage by that customer, and with this kit he lays it out and interests the foreman of the shop.

7581

It might be the installation of a little steam boiler here, an electric steam boiler at some far corner, where so steam was available. Or it might be strip heaters in maintaining temperatures in glue pots—or things of that general type.

The general sales are made, not by our company, but they are made by the manufacturers' agents who are located in the territory, and the demonstration of equipment is usually arranged through the manufacturers' representatives.

7582

Charles E. Michel—By Respondents—Direct

Special meetings with the industrial engineers of St. Louis are sponsored by the division where we bring outstanding speakers to these industrial engineers on one subject or another.

The results of the promotion by this division I can sum up very quickly.

The load in 10 years has been increased by 27,713 kilowatts, and at the present time, that is, as of January 1, 1940, stands at 83,815 kilowatts.

7583

Q. That is the electric heating load? A. That is the electric heating load.

The Examiner: Let's have a short recess.

(Whereupon a short recess was taken.)

—3,206—

The Examiner: Let us resume.

The Witness: It is probably appropriate at this time to say something about the air conditioning division of the company.

7584

The air conditioning division was opened in 1929, was organized at that time. It was among the first air conditioning bureaus organized in the United States. The function of the Group's division is to promote the installation of air conditioning equipment on the lines of the entire Group, and not to merchandise air conditioning equipment but to act in the capacity of a consulting engineer to the prospective buyer in the careful watching of the type and size of installations that are put in.

We find that very necessary because not only too small a unit will give you unsatisfactory service, but

likewise too large a unit will give unsatisfactory service for the reason that too large a unit would operate on very rare intervals, and the control of humidity would not be achieved by such an operation.

So that the department has had to be thoroughly educated and trained in the science of specification of the types and sizes of equipment.

It cooperates with all of the distributors by keeping them constantly informed on the Group's activities, and providing for them assistance in their sales efforts.

—3,207—

Articles of an informative nature are constantly written to both the distributors, their salesmen, and to the public. Open forums are conducted in cooperation with educational institutions. Sales training in air conditioning is provided for the industrial sales force of our company, as well as the commercial salesmen, so that they may uncover and conduct the preliminary negotiations with our customers in connection with air conditioning installations.

7587

When these have reached a point where real interest has been aroused on the part of the customer, then the air conditioning division is called in, and that particular sales operation is turned over to that division who then works in connection with the manufacturer and the distributor of the merchandise.

Statistics of air conditioning installations are currently maintained for the use of the dealers, and the distributors so that they may plan their sales

7588

Colloquy

activities along lines indicated by experience. Special studies are carried on by the department to determine operating characteristics, operating hours, and current consumption of existing installations, and also to keep abreast of the new methods and equipment developed, a most important operation.

For instance, at the present time there is in the development stage the storage type of air conditioning. The cost of installation is quite comparable to the ordinary compressor type that is in use today, but

7589

—3,208—

it is indicated that the use of the storage type may substantially reduce the cost of operating to the customer, due to the fact that the storage type depends upon night operation for its charging, and providing the storage type is of sufficient capacity and providing the customer is on a demand rate, under the provisions of the demand rate schedule, which permits night demand in excess of the day demand without additional demand charges, reduced costs in operation seem quite sure.

7590

That development is taking place rapidly, we are watching it carefully, we have made three installations in St. Louis, in which we have cooperated in the installation, and are working with those customers now to develop the real facts.

The results of the growth of the air conditioning load our lines may be stated about as follows: In 1930 there were 26 installations with a connected load of 4,148 kilowatts; and on July 31, 1940, there were

Charles E. Michel—By Respondents—Direct

7591

3,154 installations, with a connected load of 36,252 kilowatts.

Now, on a per capita basis, that is a substantial amount of air conditioning load. Remember that it is young and growing.

Q. Are some of these installations residential installations? A. Yes, sir. I will give you some information on that which I consider very important.

As of July 31, 1940, there are 1,475 residential installations

7592

—3,209—

tions in St. Louis, and that is exceptional. Air conditioning for commercial operation and for sales operation is quite common, but that large a number of residential installations is not as yet common throughout the country.

For instance, another important division there is offices. There are 760 installations in offices in the city of St. Louis; there are 273 retail stores in the city; and there are 159 installations in eating places, such as taverns, within the limits of the Group.

Q. You have spoken of the isolated plants division; how is it organized and what does it do? A. The isolated plant division of the company is a combined sales and service organization responsible for all negotiations with customers and prospects through the system, operating or considering the operation of an isolated plant.

7593

Its main objective, of course, is the obtaining of new business from the replacement of existing plants and also the retaining of existing business when threatened by proposed power plant installations.

7594

Charles E. Michel—By Respondents—Direct

The division operates under a specialist who is informed fully on all of the different types of competition to which utility service is subjected. I need not recite those here, but that man is able to sit down and discuss with consulting engineers and plant engineers any type of power, including electric power, and its application to a particular job.

—3,210—

7595 They maintain frequent sales contacts with emphasis laid on the economy of purchased electricity as compared to isolated plant operation.

The development of the prospects' interests and obtaining the prospects' consent to make a thorough investigation of conditions.

The conducting of engineering and economic studies resulting in a definite proposal indicating comparative advantages.

Selling the prospect on the advantages indicated by the proposal.

The negotiation of contracts for the purchase of electricity.

7596

By Mr. Hamilton:

Q. Mr. Michel, you might explain what you mean by "isolated plants" in this connection. A. By "isolated plants" I mean plants that are installed or are about to be installed by either the industrial or commercial establishment for the supplying of their own electrical requirements.

It may, and frequently is, run in connection with steam service where the steam requirements for processing purposes are large, and where the demands on the electrical

Charles E. Michel—By Respondents—Direct

7597

consumption and the steam consumption and so forth are somewhat coincident there is a very difficult job in holding that customer or selling to that class of customer.

Where that does not exist, with rates as low as the Union

—3,211—

Electric rates, we have comparatively little trouble in combating the isolated plant operation in our territory.

Does that answer your question?

Q. Yes. A. This isolated plant division has, as one of its functions, the familiarizing of the company's sales representatives with the engineering and economic aspects of the isolated plant operation, and the training in the best methods of combating that competition.

7598

Assisting in the handling of negotiations with existing customers where isolated plants are being considered.

The organization consists of one development engineer, two industrial sales engineers, and one consulting engineer, covering all territories of the Union Electric Group.

It operates both directly with customers and prospects through the general sales staff.

7599

The department has been most successful in that operation. It has lost but a comparatively small amount of electric service through the installation of isolated plants in our district.

Q. Now, in addition to the direct merchandising activity of the Group, you also cooperate with wholesalers and dealers in the territory, do you not? A. We have one of the best organized dealer cooperative organizations in the country. It is so recognized in the industry. It was recognized by the McGraw Award that I spoke of way back in 1933,

—3,212—

7600

Charles E. Michel—By Respondents—Direct

when the organization was in full swing at that time, and has continued up to the present time.

We have in that work one man only who is directly charged with the cooperative work. He is a sales counsellor who has but one lone job on earth, and that is the development of the dealers' business in our territory. His success or failure in his work depends entirely upon the success or failure of the merchandising operations of the dealers. That man is a capable salesman. He is a well informed man on

7601 dealer cooperation, having been previously in the position of a paid secretary of the Radio Dealers' Association of St. Louis, from which organization I took him because of his wide experience, his wide acquaintance among the dealers, and his natural education and qualification for cooperative work.

He is a trainer of salesmen whose services are available to all dealers in the city. He is a trainer of the managers of salesmen primarily. He spends a great deal of time with them. He is charged with conveying to all retail and wholesale outlets in the city, handling electrical appliances, the complete details of the sales promotion plans that are developed by the Union Electric Group for the benefit of the dealer.

He is charged with the helping of these people in connection with their advertising programs, showing them from our own experience in our own merchandising work, the features of the different pieces of merchandise which seem to have the greatest appeal to the public.

—3,213—

He is charged with the coordination, as I have said, of those dealer activities with the activities of our own mer-

Charles E. Michel—By Respondents—Direct

7603

chandising department, and with the advertising that is put out.

He is charged with handling the public shows and exhibitions, such as the annual Home Show; the dealers' sales counsellor establishes a cooperative participation by the dealers and the company by those types of shows.

He also encourages the dealer to make full use of the home service division of the company, arranges with the home service department for the demonstration, for instance, of a particular electric range, calling into that demonstration the distributor and all of his dealers, together with their salesmen, where our own home economist educates those salesmen as to the benefits to be derived from the use of that particular range.

7604

—3,214—

All of the advertising that is run in connection with our dealer promotion, and it is very extensive, is signed, not by the Union Electric Group, but by the "Electrical Dealers & Contractors" or, "See Your Electric Range Dealer".

The company's name appears only when we say, "In co-operation with the Union Electric Company", or the "Union Electric Group", as the case may be.

7605

Plan books are issued to describe each major advertising program, and these are quite important. It has been established now since 1934, and is called the Electric News. The dealers are expecting it, and in it are set forth the promotional plans set up by the company for the dealer.

It goes further than that, and when new pieces of apparatus appear on the market, it describes those pieces of apparatus and just where they fit into the promotional plans to the benefit of the public.

7606

Charles E. Michel—By Respondents—Direct

The counselor frequently has our own advertising department work with the dealers in the preparation of their advertising. The cooperative advertising published in the past 7 years, which is over and above the advertising of the Company's merchandising division, included 712 newspaper advertisements, 900 billboards, 2,873 radio spot announcements, 207,000 direct-mail pieces, 17,864 dealer store window displays, and 1,645,000 pieces of printed matter, which was put out over the dealers' names for the purpose of drawing

7607

—3,215—

to those dealers' stores the prospect for one or another type of electrical merchandise.

Q. Now is the result of this program a stimulation of the dealers' activities? A. Very definitely so. The average dealer is usually a little business man. He very frequently is not fully informed on the best principles of merchandising and sales work, and, left to his own devices, he fails to get out of his organization the maximum possible sales.

7608

With the work that is done with these dealers, they are not only stimulated to additional activity, but are informed properly on these underlying principles that make for their success.

Q. Are there other services provided by the Union Electric Group for the dealers in the territory? A. Yes, sir. In promoting the dealers' work and business, the services of the home-lighting division are at his disposal, as are the services of the different specialists in the company, such as the air-conditioning man, the refrigeration man, and so forth. They work with the dealer and help him in his work.

Q. Will you refer to Respondents' Exhibit No. 51, which sets forth the electric service territory, and tell us whether

Charles E. Michel—By Respondents—Direct

7609

the electric service in the entire shaded portion indicated on Exhibit No. 51 is furnished by the Union Electric Group?

—3,216—

A. No, not all of the service is supplied by the group. The group thoroughly covers all of the territory in which we hold certificates of necessity and convenience, but there are certain other groups that furnish some of the service. I might mention that within the corporate limits of the City of St. Louis, there is the Laclede Power & Light Company, which furnishes electric service in competition with our company. As of the year 1939, they furnished 14 per cent. of the total number of kilowatt hours that were sold within the corporate limits of the City of St. Louis, and their sales, as compared with the Group sales of electricity in its entire territory, were 5.9 per cent.

7610

Q. The distribution of the Laclede Company is confined to the City of St. Louis, is it? A. It is confined to the City of St. Louis, and thoroughly covers a very large proportion of the city. I can best describe what it doesn't cover, which is the southwest section of the city, which is somewhat more sparsely settled than the city as a whole, and furthermore, has only been developed in comparatively recent times. Their lines do not run into that section, but the rest of the city they cover.

7611

Q. Are there sales by the Union Electric Group to certain municipalities? A. There are three municipalities, small ones, that have their own distribution system and purchase electricity from the Union Electric Group. These are the

—3,217—

cities of Farmington, and Kirkwood, in Missouri, and the small town of West Point in Iowa.

7612

Charles E. Michel—By Respondents—Direct

Q. And are there any customers within the territory who are served by cooperatives? A. In the territory in which the group holds certificates, there are three cooperatives that, through spearheads, serve a few customers.

7613

Around the town of Alton, on the north and on the eastern border, and in territory not covered by our company, the M. J. M. Electric Cooperative, Inc., and the Southwestern Electric Cooperative, Inc., operate. These two have a few spearheads into our territory and so serve a total of 8 customers that are located in our territory.

In the Keokuk district there is the Appanoose Light & Power Company, a cooperative, which serves a half a dozen customers up there. So that that is a total of about 14 customers that are served by cooperatives.

7614

Q. Has the Union Electric Group, over a period of years, conducted a program of rural electrification? A. It has. The majority of the rural customers that have come to the Union Electric System have come through the acquisition of properties other than the original property, which served the City of St. Louis only. Those rural districts, which were not served as a general thing by the small properties

—3,218—

acquired by the Union Electric, have been, since that time, the recipients of a great deal of careful thought and service in an effort to have them come on the line.

In the year 1932, I personally took over the direction of service to the rural customers of the company. Prior to that time, it had been looked after by the managers in the several outlying offices which I have enumerated previously.

Charles E. Michel—By Respondents—Direct

7615

In that year I became convinced that we could, to advantage, run our lines further into the rural territory and attract a considerable amount of business.

I put out one man during that year to sound out the farmers on the question of, for instance, soil heating, brooding of chickens, to see whether or not they were interested, and found that they were.

In 1933, a development engineer was assigned to the rural districts to study the situation. His contacts were largely with farmers already on the lines, all of those adjacent to existing supply lines, and covered not only the use of service but the use of utilization farm equipment.

Early in 1934, we decided that the possibility was such that a comprehensive survey of our entire rural area was indicated. Maps of the territory were secured and the following force was built up to handle the survey:

A utilization engineer in charge; four field engineers; two draftsmen; one estimating engineer.

—3,219—

These men covered practically every road in the territory over which an automobile could be run. They spotted on the maps the location of each prospective customer and classified these customers as to possible revenues.

They were split into four classifications: The vegetable grower and commercial customer were estimated at about \$65 a year for electric service; Class B was a dairy farmer with a small commercial customer, at \$35 a year.

—3,220—

Class C was a rural residence or a general farm customer with a revenue of about \$25 a year; and class D was

7616

7617

7618

Charles E. Michel—By Respondents—Direct

a class of schools, churches, and the little small residence, with revenue of about \$11 a year.

Now, these revenues under which they were classified were derived by averages from customers of the same type already on our lines. From a study of these maps we determined that it was possible for us to extend the area feeders which would bring the service within reasonable distance of all prospective customers, and these feeders were put under construction.

7619 When they had gotten under construction and it was evident to the rural customers that lines were being run, we changed the organization from a purely engineering organization to one consisting of a development engineer in charge, three sales supervisors, and eight salesmen, and these men set out to contact every prospective customer within striking distance of the area feeders.

These men were selling not only electric service, but the idea of farm utilization equipment, although they did not sell the equipment itself, but used dealers to actually handle the equipment sales.

7620 Q. I gather from your testimony that the centralization of the rural electrification program in the group began in 1932? A. The centralization, that is correct.

—3,221—

Q. Had there been activity in the field of rural electrification on the part of the group prior to 1932? A. Very definitely, but it was handled, as I said, by the men in the local offices, and was handled just as routine business. It was not a specific, definite drive to get the customers on the line.

Q. Now, what is the record of the Union Electric group with respect to the availability of electric service for cus-

Charles E. Michel—By Respondents—Direct

7621

tomers in the rural territory? A. Well, after the company made its first extension of primary area feeders, which constituted 69 miles of such feeders, and after these men had contacted every customer in the rural area who was within reasonable reach of the area feeders, we handled as of 1933—7,512 rural customers, and the miles of line at that time were 517.9.

In 1934, we ran 108.3 miles additional, and picked up 726 customers.

In 1935, we ran 56.3 miles and picked up 1,354 customers. 7622

In 1936, we ran 216.2 miles and picked up 1,878 customers.

In 1937, we ran 152.6 miles and picked up 1,075 customers.

In 1938, we ran 109.3 miles and picked up 1,329 customers.

Last year, 1939, we ran 145.7 miles and picked up 1,464 customers.

So that we now have a total of 15,338 customers.

—3,222— 7623

Q. And a total mileage of what? A. And a total mileage of 1,306.3 miles.

Q. Now, I think you had better explain what you mean by the term "rural" as applied to the figures which you have just given. A. Rural customers today are defined as those customers lying in the territories at which our rural rates apply. They are outside of the metropolitan areas in which the same rate applies in all area, but it is slightly higher in the rural area than it is in the metropolitan area, and all customers in that area are classified as rural customers.

7624

Charles E. Michel—By Respondents—Direct

Consequently, if there is a town located in the rural area that is classed as a suburban district, it is deducted in computing the number of customers in the rural area.

Q. Are you able to give us any figures as to the percentage of coverage within this so-called rural area of potential customers? A. I can say this, that at the present time 60 per cent. of the available business is already connected to the lines. There remains 40 per cent. to be, I hope, gotten sooner or later.

7625

In considering those figures, permit me to say that our rural areas are somewhat sparsely populated and none too productive, due to the fact that a large part of the rural areas district lies in the foothills of the Ozark Mountains, and there are many districts up there which it is awfully hard to get to with lines, and having gotten there, the cus-

—3,223—

tomers are not in a position to take service regardless of how cheap it may be brought to them.

7626

Q. What are the policies of the group with respect to line extensions within the rural territory? A. In connection with the extension of line to the rural customers, as I have stated, after the survey was made we ran area feeders, which covered practically all of the larger roads in the territory. From these area feeders it becomes necessary to connect the customers from one side to another, and the company will invest three years' estimated revenue per customer, but not less than \$50 per customer. The customer has the privilege of guaranteeing three years' revenue equal to the cost of the extension, or of depositing the difference between the estimated annual revenue and the cost of the extension. These deposits are subject to refund based on the amount by which

Charles E. Michel—By Respondents—Direct

7627

the actual first three years' revenue exceeds the company's investment, and \$30 for each new residential customer added during the first five years. No refund, of course, is made of the total amount of deposit beyond that which has been put up.

Q. Now, the investment of which you have spoken is a figure, is it not, related to a particular line extension, to a particular customer? A. That is correct, sir.

—3,224—

Q. Does the program of rural expansion which the Union Electric group pursues, cover all classes of service to the rural customer? A. It does. As I have previously stated, we have two men in charge of the development of the rural territory, both of whom are graduates of the University of Missouri, holding the degree of B. S. in agriculture. Those men direct the sales force that operates in the rural districts. During the past six years, 366 meetings were held with the rural groupson the use of small appliances, major appliances, home lighting, farm applications of electricity, and the total estimated attendance was 25,625 people.

7628

During the same period more than 100,000 mailing pieces was sent to the farm customers on farm applications of electricity, including brooding, poultry house lighting, poultry water heating, milk cooling, soil heating, green house lighting, and household applications.

7629

The company's rural service representatives have been responsible for an addition of 1,545 installations of electrical equipment during the past 5 years. That is farm utilization equipment.

The magazine "Electricity to the Farm," which is a national magazine, is mailed to 1,200 farmers each month, for

7630

Charles E. Michel—By Respondents—Direct

which there is no charge made. The educational work is carried on with the full cooperation of the State Agricultural

—3,225—

Extension Service and other State and Local farm agencies.

Displays and exhibits are held each year at county fairs and other agricultural functions. An average of 200 personal calls on rural customers is made each month by the rural service representatives.

7631

The Examiner: We will recess until two o'clock.

(Whereupon, at 12:20 o'clock p. m. a recess was taken until 2 o'clock p. m. of the same day.)

—3,226—

7632

Charles E. Michel—By Respondents—Direct

7633

AFTERNOON SESSION

(Whereupon, at 2:00 o'clock p. m., the hearing reconvened.)

Whereupon CHARLES E. MICHEL resumed the stand and testified further as follows:

Direct Examination by Mr. Hamilton:

Q. You were discussing rural electrification, Mr. Michel. Would you describe what, if any, obstacles confronted the Union Electric group in the course of developing its rural electrification program? A. In the rural territory served by the Union Electric group, we extend all the day from the rich bottom lands in Missouri, along the river into the foothills of the Ozark Mountains and the problem in the two different districts is quite dissimilar.

In the lowlands, the farms are of considerable size, the soil is rich and the farmers are reasonably prosperous. In those territories the type of promotion has to be quite different from that which we use in the vast majority of our rural territory. The vast majority of that rural territory is located in the foothills of the Ozark Mountains.

Previously I testified to the fact that we had made a careful survey over all of the roads in the territory on which we could run an automobile. That, of course, took us into the sparsely populated and hill districts of the Ozark territory.

—3,227—

In that territory there was no such thing as a large farm. It consists, primarily, of small acreage, stony ground,

7636 *Charles E. Michel—By Respondents—Direct*

and the products of the little farms are largely tomatoes, or some grapes, a few apples, and things of that kind.

It is seldom that you will find in those districts any grain farmers. You do find a few poultry farmers and a few dairy farmers. In the survey that was made, it may be interesting for me to say that not on one occasion, but on several occasions we encountered homes that had no doors and no windows in them; just shacks that were covered with burlap, and we had quite a considerable amount of difficulty in inter-

7637 viewing those people and we insisted on interviewing them to find out what their conditions were, whether or not they were interested in electric service in the homes, and upon their little farms, and then we ran up against that condition of affairs where the farmer not only was put to it to try to pay the small electric bill that was involved—and I may say right here that the minimum charge in our territory is only 75 cents a month against the amount of service that they guarantee to use—and they not only couldn't pay the 75 cents a month, but the matter of wiring their little homes and the matter of the purchase of necessary utilization equipment 7638 was completely out of the range of possibility with those people.

Now, as I say, we talked to everyone of these farmers

—3,228—

that were within a thousand feet of our area of feeders, so we determined that if we were to be successful in those areas, that we probably never could take the very poor grade of farmer, or habitant that was there, that I just described, that we would have to point toward a man who would have some possibility of use of electricity to his advantage.

Charles E. Michel—By Respondents—Direct

7639

Then we had to set up some method of getting that apparatus in the hands of that man on terms that were within his possibility of meeting. We set up a deferred payment plan for these farmers on all of the utilization equipment that he could use in his home—I am talking now of directly in the house, domestic appliances—and in those cases, we would carry his account for him.

In the case of farm utilization equipment, a different sort of problem presented itself and that was the sale of items such as brooders, soil heating, and so forth. In those cases, we encouraged the dealers to go into the business and to attempt to sell the farmers direct.

7640

We also extended a plan to those dealers that we have in operation in the City of St. Louis. That is, he sells his customers and asks us to carry on the light bill the deferred payment accounts.

Those deferred payment accounts are entered on our light bill, are billed to the customer, and when the money comes in, it is sent to the dealer. In a case where the customer becomes sixty days delinquent, we simply return to the dealer

—3,229—

7641

the original paper which he sent to us and it is up, then, to the dealer to deal and work with his customer on the collection work. In other words, we will not become a definite collection agency for these dealers beyond the reasonable willingness to pay of the customer that is there.

That made it rather difficult in those districts, as you can easily understand. The fact that a water system would cost that man maybe one hundred or a hundred and fifty dollars, and the other apparatus somewhat less—now, in an

7642

Charles E. Michel—By Respondents—Direct

effort to make it more feasible for those smaller customers to purchase, for instance, the electric range, which we believe to be one of the things that he can use to advantage, we have gone into a plan of promoting a very low-priced electric range.

It sells for about \$55.00, and that range, in certain sections of the territory, is being promoted at the present time in order that we determine how the customers accept it.

7643 If we find a general acceptance, we will extend the plan to the entire territory, but, generally speaking, when you get into the Ozark Mountain district, you find the economic situation of those people that live there, with certain exceptions, rather strained.

Does that answer the question?

Q. I think you stated this morning that you actually had on your lines approximately 60 per cent. of prospective customers in the rural territory. Do you mind amplifying that statement just a little further? A. No, sir; I will be glad to.

—3,230—

7644 The development of policies and methods used in the expansion of the Union Electric group to bring electric service to the prospective rural customers in the large, unserved areas in this territory, were the result of specific studies of the problem of rural electrification.

Governmental agencies and private utilities use different definitions of rural areas. It was felt at the time that, if possible, the rural areas should be defined in such a manner that they would, for many years in the future, be well-defined and established areas.

For this reason, the Union Electric group selected and defined a specific rural rate zone. The rural rate zone covers

Charles E. Michel—By Respondents—Direct

7645

practically all of the farming area in the territory and includes only a limited number of incorporated areas.

The largest incorporated community has a population of 311. This manner of defining the rural territory necessarily includes much less territory than if the United States Census Bureau definition of area outside of communities of 2,500 or more population had been used.

Information and data on rural customers can, therefore, be considered as covering a typically rural territory and not one of a suburban or urban type.

7646

The definition gives further weight to the successful electrification of the territory as, in this territory, more than 60 per cent. of all the prospective customers have electric service.

Now, it is the definition of that prospective customer, I believe, that is wanted. When we made the survey of the territory, as I have already described it, we included all customers within 1,000 feet of the area extensions as prospective customers, and, as of the report handed in by my men, which was dated the first of this year, 60 per cent. of all prospective customers, as defined, have now added electric service.

7647

Q. 60 per cent., then, of all persons having residences within 1,000 feet of your lines, is that correct? A. Within 1,000 feet of the area feeders.

Q. Are you able to give us any statistics as to the consumption of electric energy within the rural territory and also as to the average cost to the consumer within that territory of the current purchased? A. I believe you asked, first, for the number of customers.

7648

Charles E. Michel—By Respondents—Direct

Q. My question related, specifically, to the consumption, average consumption. A. Average consumption?

Q. And to the cost of that consumption. A. During period April 1, 1935, through March 31, of 1937, records were maintained by the accounting department of the energy

—3,232—

consumption by farm customers for the Missouri territory only. At the end of March 31, 1936, the average yearly consumption by those farm customers was 1,063.9 kilowatt hours per year. For the year 1937, corresponding period, the consumption was 1,165.0 kilowatt hours. So that the annual increase by those customers during that year's period was 92.1 kilowatt hours.

Q. Well, now, subsequent to the date of those figures, was the classification changed due to the fact that the Federal Power Commission has specified a new classification which does not permit us to keep the pure farm customer?

A. We are now conforming to the Federal Power Commission's rulings and I can't give the figures beyond 1937.

7649

Q. On a basis per farm? A. On a basis per farm.

Q. Are you able to give it on a basis of per rural residence customer? A. No, sir, I can not give that on the basis of per rural customer.

(Discussion off the record.)

By Mr. Hamilton:

Q. Will you verify, Mr. Michel, and see if you can give us the answer to the question I have just put to you? A. Yes, sir, I can give the answer.

Charles E. Michel—By Respondents—Direct 7651

The average kilowatt hour consumption per rural residence customer in 1939 was 374 kilowatt hours and the average cost per kilowatt hour for the residential service
—3,233—

in the rural area of the system was 3.69 cents per kilowatt hour.

Q. That figure of average cost being also for the year 1939, is it not? A. That is correct, sir.

Q. Now, are you able to outline for us, generally, the nature of the residential rate schedules in effect in the Union Electric group? A. Yes, sir. 7652

The Union Electric group residential rates are comparable throughout the entire territory served. The areas are divided geographically to take in the St. Louis City, County, urban, East St. Louis and Alton urban. The second division is St. Louis County suburban district; the third is St. Louis County rural district; the fourth is the outlying Missouri urban, East St. Louis and Alton rural; and the last is the outlying Missouri territory.

As these territories have come into the Union Electric system, we, of course, inherited, with the different companies, an enormous number of different rates. We have been able, in case of the residential rate, to bring practically all of the service to residential customers under what is known as the "block meter rate." 7653

There is one form of rate schedule which applies to the whole territory and uniformity in residence rate has progressed to the point where all active residence rates in

—3,234—

Missouri, Illinois, and Iowa territory are of the block meter type, with 30 or 32 kilowatt hours in the first block, 168 or

7654

Charles E. Michel--By Respondents--Direct

170 kilowatt hours in the second block, and the third block for use in excess of 200 kilowatt hours per month.

So that we have one residence rate under which all service used in the residence is billed for under that rate. The St. Louis City and the urban districts around in St. Louis County and Alton and East St. Louis, the rate is the first 32 kilowatt hours per month at 5 cents; the next 168 kilowatt hours per month at $2\frac{1}{2}$ cents; and all excess at $1\frac{1}{2}$ cents.

7655

In the suburban district, which is that district lying just outside of the urban territory, the rate is identical excepting that the first step carries a 6 cent charge instead of a 5 cent charge. That is, the first 32 kilowatt hours.

In no territory, including the rural territory, have we any top step in our residence rate higher than 7 cents.

The outlying Missouri territory, rural, which we have been discussing, has 32 kilowatt hours per month at 7 cents, the next 168 at 3 cents, and over 200 kilowatt hours per month at 2 cents. That carries a minimum bill for our rural territory of 75 cents a month.

7656

In the urban territory, the minimum bill is 50 cents a month.

Now, in the Iowa territory, we had certain difficulties

—3,235—

when we attempted to equalize the rates with the rest of the territory. Always, when we would take over a piece of property, as we did in that case, we have found rates that were not what we would term sound rates. They might have steps in them that did not represent what we considered the proper steps, and there were points where the

Charles E. Michel—By Respondents—Direct

7657

normal rate might not, for an individual customer, produce as low a rate as he had.

In those cases, we let the rate alone until such time as the reduction in our general rates were such that we could step in and wipe these other rates out. That keeps us from raising the bill of any of the customers.

In the Iowa territory, today, the rates are $6\frac{1}{2}$ cents for the first 30 kilowatt hours a month, as distinguished from five at 32 in the more densely populated district around St. Louis, the next 170 at 3 cents and over 200 kilowatt hours per month at 2 cents.

7658

In the rural areas in Iowa and Illinois, the first step is 30 kilowatt hours per month at $7\frac{1}{2}$ cents, the next 170 at 3 cents, and all over 200 kilowatt hours per month at 2 cents a kilowatt hour.

Q. I don't believe, Mr. Michel, you gave the precise figure for the second and third blocks on your schedule which commences at 6 cents per kilowatt hour for the first 32 kilowatt hours per month. A. Yes, sir.

—3,236—

7659

Q. Will you give that? A. I think it possible that I did not.

That is for St. Louis County suburban. The St. Louis County rural is $7, 2\frac{1}{2}, 1\frac{1}{2}$. That is the third classification that I gave. It is $7, 2\frac{1}{2}, 1\frac{1}{2}$.

Then the outlying Missouri urban territories are 6, 3 and 2, and the rural I gave was 7, 3 and 2.

Does that answer the question?

Q. Yes. In general, what are the other rate classifications, aside from that for residential service? A. If I may,

7660 *Charles E. Michel—By Respondents—Direct*

and if it answers the purpose, I will describe the rate classifications that cover 85 per cent. of all customers served by the Union Electric group, and the variations from that I will be glad to give you as they are desired.

I have discussed the residence rate as it applies not only to the urban district but to the several geographic districts that we have.

We have five general rate schedules. One residence rate, one general commercial rate, one standard rate—the last

7661 two applying to commercial business—one large light and power rate, and one high load factor rate—the last two applying to large industrials and commercial establishments.

The general commercial rate is available for commercial lighting and/or power. The rate is:

The first 300 kilowatt hours per month at 5 cents;

—3,237—

The next 300 at 4 cents;

The next 400 at 3 cents;

The next 4,000 at 2½ cents;

And all over 5,000 at 2 cents.

7662 There is a load factor clause in that rate which states that for all use in excess of 5,000 kilowatt hours per month, which is also in excess of 200 kilowatt hours use of the demand, the charge will be 1½ cents per kilowatt hour.

That is applicable, as I say, to the small lighting and power business.

The other rate, which is applicable to the same class of business, is known as our standard commercial rate. It carries a yearly demand charge of \$12.00 per kilowatt per year, payable in monthly installments, plus an energy charge

Charles E. Michel—By Respondents—Direct

7663

for the first 1,000 kilowatt hours per month, 3 cents per kilowatt hour.

For the next 4,000, $2\frac{1}{2}$ cents per kilowatt hour. All over 5,000, at 2 cents per kilowatt hour.

These rates are all subject to a prompt payment discount of five per cent. on the first \$25.00 per month, and one per cent. on the excess.

Now, for the large business, the two rates that we have, one known as the large light and power rate is taken under service contracts for three years or more, and for not less than 150 kilowatts of demand.

The service is supplied and measured at primary voltage.

—3,238—

The demand charge for each kilowatt of the first 200 kilowatts of demand is $\$1.66\frac{2}{3}$ per month—that is $\$1.66\frac{2}{3}$.

For each kilowatt of the next 800 kilowatts of demand, \$1.25 per month.

For each kilowatt in excess of 1,000 kilowatts of demand, \$1.00 per month, payable monthly, plus an energy charge for the first 300 hours use of the demand, 7 mills per kilowatt hour.

For the next 200 hours use of the demand, five mills per kilowatt hour.

All excess over 500 hours' use of the demand, $3\frac{1}{2}$ mills per kilowatt hour.

The rate is subject to a coal clause, adjustment for coal cost.

The demand is defined as the highest average load in kilowatts existing in any period of 15 consecutive minutes, and the billing demand to be used as the basis of determining

7664

7665

7666

Charles E. Michel—By Respondents—Direct

the demand and energy charges for the month will be either the demand established during that month, between 7:00 a. m. and 10:00 p. m., or 50 per cent. of the demand established during that month, between 10:00 p. m. and 7:00 a. m., whichever is the higher.

Billing demand, as I said, will be for not less than 150 kilowatts. The minimum monthly bill will be the demand charge based on the highest billing demand established during the 12 months ended with the current month.

7667

For primary high load factor service on three-year contracts the schedule is the first 365 hours use of the first

—3,239—

200 kilowatts of demand per month—1.5 cents per kilowatt hour. First 365 hours use of the next 800 kilowatts of demand per month—1.0 cent per kilowatt hour.

The first 365 hours of use of all over 1,000 kilowatts of demand per month, $8\frac{1}{2}$ mills per kilowatt hour.

All kilowatt hours in excess of 365 hours use of the total demand per month, $3\frac{1}{2}$ mills per kilowatt hour.

7668

The rate is subject to a coal clause the same as in the case of the large light and power rate.

The demand upon which energy blocks will be based in billing is defined as the highest average load in kilowatts existing in any period of 15 consecutive minutes during the month. No demand of less than 150 kilowatts will apply.

The minimum monthly bill will be the application of the above charge to not less than 365 hours use of the demand established during the month, but in no case less than the following charges, based on the highest demand established during any of the preceding 11 months:

Charles E. Michel—By Respondents—Direct

7669

The first 200 kilowatts of demand, \$1.66 $\frac{2}{3}$ per kilowatt per month.

The next 800 kilowatts of demand, \$1.25 per kilowatt per month.

All over 1,000 kilowatts of demand, \$1.00 per kilowatt per month.

Prompt payment discount as described above applies to this rate also.

—3,240—

Now, that is the five different types of rates that we have and under which our customers are taken. They are applicable, with variations in their charges to different geographic districts, but the rates that I have already named to you cover 85 per cent. of all the customers served by the group.

Q. Is that 85 per cent. in number of customers? A. Yes, sir. That is in number of customers.

Mr. Hamilton: Will you please mark this diagram as Respondents' Exhibit No. 61 for identification?

(The document referred to was marked Respondents' Exhibit No. 61 for identification.)

By Mr. Hamilton:

Q. Will you please state, Mr. Michel, what Respondents' Exhibit No. 61 for identification represents? A. This line graph shows the average rate per kilowatt hour paid by residential customers from the year 1912 to the year 1939, inclusive.

For the same period it shows the national average as given by the Edison Electric Institute data.

7670

7671

7672

Charles E. Michel—By Respondents—Direct

It also shows the average yearly kilowatt hour use by the residential customers during the same period and the average yearly kilowatt hour use for the nation as a whole.

Q. Has this diagram been prepared under your supervision? A. Yes, sir. It has.

Q. The information given covers data for the Union
—3,241—

Electric Company of Missouri and its subsidiaries? A. Yes, sir.

7673

Q. And the facts shown as to those companies have been taken, have they not, from the records of the respective companies indicated? A. That is right.

Mr. Hamilton: I offer it in evidence as Respondents' Exhibit No. 61.

Mr. Binford: No objection.

The Examiner: It is admitted under the number mentioned.

(The document referred to was received in evidence as Respondents' Exhibit No. 61.)

7674

By Mr. Hamilton:

Q. In order to clarify the exhibit, Mr. Michel, will you give us the precise figures at 1912 and at subsequent periods —let's say at ten-year intervals—as shown by the exhibit? A. In the year 1912 the average use by the residential customers was 285.6 kilowatt hours. I do not have the national figure as of that year.

The Union Electric group customers paid an average of 8.89 cents per kilowatt hour for their use, and the national

Charles E. Michel—By Respondents—Direct

7675

average during the same year, taken from the data obtained from the Edison Electric Institute statistical bulletins No. 2, 1935, and No. 7, 1940, show that the national average was 9.10 cents per kilowatt hour.

—3,242—

Q. Now, state the same figures, if you will—or comparable figures, rather—for 1920. A. 1920?

Q. Yes. A. The Union Electric group average, as of 1920, was 395.2 kilowatt hours per year.

The national average was 339 kilowatt hours per year.

7676

The Union Electric rate average was 5.8839 cents per kilowatt hour, and the national average was 7.45 cents per kilowatt hour.

Q. Now, again, at 1930 and at 1939, if you will? A. 1930?

Q. Yes. A. In 1930 the average kilowatt hours for the Union Electric group was 618.9.

For the nation as a whole it was 547 kilowatt hours.

The average rate paid by Union Electric customers was 4.4510 cents per kilowatt hour, and, for the nation as a whole, was 6.03 cents per kilowatt hour.

7677

As of 1939 the average consumption in the Union Electric group was 1,014.7 kilowatt hours against the national average of 900 kilowatt hours, and the average rate paid by the Union Electric group was 3.2266 cents per kilowatt hour against the national average of 4.06 cents per kilowatt hour.

In other words, in 1939 the Union Electric consumption,

—3,243—

average consumption, per residence customer was more than 12 per cent. higher than the national average, and Union

7678

Charles E. Michel—By Respondents—Direct

Electric's charges on the average kilowatt hour was 20½ per cent. lower than the national average.

Q. Now, are you able to give us the date on average use or average rate paid by consumers in other than residential classification of service? A. Yes, sir. I am. For the year 1939 I have given the residential rate average as 3.2266 cents per kilowatt hour. From the small light and power business for the same year, the average rate was 3.05 cents per kilowatt hour.

7679

From large light and power business the average rate was .85 cents per kilowatt hour.

For the total sales of electrical energy by the group, the average cost was 1.42 cents per kilowatt hour.

Q. Now, will you indicate, Mr. Michel, the largest customers on the Union Electric group system? A. The six largest customers—expressed in demand; not connected load—is 91,800 kilowatts.

Q. That is, the total demand of the six largest customers?

A. That is the total arithmetical sum of the maximum demands, individual customers.

7680

Q. And that is for what period? A. That is for the period ending with September 30, 1940.

Q. Turning, now, to the matter of rate reductions, will

—3,214—

you indicate very briefly the number of rate reductions over a period of years, effected in particular classes of service, and indicate generally the sum total of those reductions in each class for the same period? A. In the period September 1, 1919, to June 15, 1940, there were 82 reductions in rates made by the Union Electric group.

Charles E. Michel—By Respondents—Direct

7681

51 of those reductions applied to the Union Electric Company of Missouri, and 31 applied to the subsidiaries of the Company.

In all, and in both territories combined, there were eleven reductions in residential service, 37 reductions in commercial service, 18 reductions in industrial service, and 16 reductions in other classes of service. A total of 82. And applying the rate reductions to either all of the customers or to a large sampling of the customers, for their use prior to the 12 months during which the reduction is made, the total reduction is found to be \$6,016,183.00 per year.

Q. Now, that is the sum total, is it not, of the 82 reductions to which you refer? A. That is correct.

Q. Will you give us the breakdown as between the different classes of service in dollars? A. In dollars?

Q. Yes. A. Yes, sir.

—3,245—

In the residence service in which there were 11 rate reductions, the total amount is \$1,928,277.00.

In the commercial service, where there were 37 reductions the amount is \$2,837,305.00.

In industrial service, where 18 reductions were made, the total is \$1,039,696.00.

To other services, of which there were 16 reductions, the amount is \$210,905.00.

Making the total of \$6,016,183.00.

Q. Now, have you any data indicating an increase or decrease in the use of electric energy as between the various classifications of service to which you have referred, during the year 1940, over a comparable period in 1939? A. I have the data for the year 1938 and the year 1939.

7682

7683

7684

Charles E. Michel—By Respondents—Direct

Q. Well, can you give us any interim figure for 1940 as compared with 1939? I think the comparison between '39 and '38 is probably adequately indicated by the exhibit. A. Yes, sir.

The kilowatt hour sales during the first eight months of 1940 to the major service classifications, indicates the following:

The residential, urban, and rural, shows an increase of 9.05 per cent.

7685 The large light and power industrial group shows an increase of 16.61 per cent.

—3,246—

The small light and power group shows an increase of 7 per cent.

The sale to other electric utilities shows an increase of 11.61 per cent.

The sale to railroads and railways shows an increase of 2.84 per cent.

Q. And the composite? A. Is an increase of 12.38 per cent. over the previous year.

7686

Q. Now, if you will give us the breakdown between major classifications of service in sales of kilowatt hours for the year 1939, giving, if you will, percentages of total sales. A. Yes. During the year 1939 the kilowatt hour sales, divided according to the major service classifications, and the per cent. of these sales to the total, were as follows:

Residential, urban and rural, \$309,987,615. The per cent. of the total sales was 14.48 per cent.

The sale to the large light and power group was 1,020,297,591 kilowatt hours, and was 47.67 per cent. of the total.

Charles E. Michel—By Respondents—Direct

7687

The small light and power group was 237,653,585 kilowatt hours, representing 11.10 per cent. of the total.

The sale to public authorities was 47,651,084 kilowatt hours, representing 2.23 per cent. of the total.

—3,247—

The sale to other electric utilities was 401,412,412, representing 18.75 per cent. of the total, and the sale to railroads and railways was 123,506,900, kilowatt hours, representing 5.77 per cent. of the total.

The total sales being 2,140,569,187.

7688

Mr. Hamilton: May we have a little recess?

The Examiner: Yes. We will take a short recess at this time.

(Whereupon a short recess was taken.)

The Examiner: You may proceed.

By Mr. Hamilton:

Q. Is the matter of rate schedules, Mr. Michel, a subject of constant study and investigation by the Union Electric group? A. Yes, sir. It is one of the most carefully thought out and studied problems that we have.

In the sales department we have a rate and statistical division in which there are five men.

Those men are engaged, year in and year out, in the study of our rate schedules in all different divisions.

One of the primary studies that these men make is the division of the total kilowatt hours purchased under the different steps of the rate.

7689

7690

Charles E. Michel—By Respondents—Direct

Now, when I say that we have some 350 thousand customers, it is easy to understand what a monumental task that is.

—3,248—

Furthermore it is absolutely essential to know those figures before an intelligent reduction in a rate schedule can be made. We, without them, would not be sure that we were according the customer an equitable reduction, nor could we be sure of the reduction in revenue that the company suffers by each such reduction.

7691

The reduction, in the case of the residence rate, is never made with a sampling of less than ten per cent. of the total number of residential customers for one year's billing by months.

By plain multiplication it shows that there are some 330 bills that must be analyzed in order to arrive at just what we are doing.

7692

In the case of the larger customers, the rate is applied to every customer's consumption for a period of one year, by months, because of the fact that the variation in those customers is very large and the fact that the possible percentage error by a sampling would be very large.

We have found that the ten per cent. sampling in the case of the residential customer assures accuracy to within approximately two per cent.

Of course, the application to the large customer is almost one hundred per cent. accurate.

In making these studies it is quite essential that we consider all classes of competition with the Company for its

electric customers.

—3,249—

Charles E. Michel—By Respondents—Direct

7693

We, in common with all other utilities, have this competition with us always, and a mistake in your rate reductions could very easily be a very expensive thing to the company, not only in the loss of revenue by an incorrect rate analysis but by loss of customers to some competitive form of service.

Q. Have you finished your statement? A. On that particular point.

Mr. Hamilton: Mr. Examiner, I am just about finished with Mr. Michel.

7694

There are a few things I would like to check on the transcript before turning him over for cross-examination.

I wonder if we could resume tomorrow, briefly, and then, if acceptable to you, go ahead with the cross examination.

Mr. Binford: I have no objection.

(Discussion off the record.)

The Examiner: All right. We will recess until ten o'clock tomorrow morning.

7695

(Whereupon, at 3:35 p. m., the case was recessed until 10:00 a. m. the following morning.)

2566

7696

BEFORE THE

Securities and Exchange Commission

Docket No. 59-10

IN THE MATTER

of

THE NORTH AMERICAN COMPANY, *et al.*

7697

Hearing Room 1101,
Securities and Exchange Commis-
sion Bldg.,
Washington, D. C.,
Friday, November 8, 1940.

7698

Met, pursuant to adjournment, at 10 o'clock a.m.

Before: W. W. SWIFT, *Trial Examiner.*

Appearances:

S. PEARCE BROWNING, JR., and CHARLES S. HAMILTON, JR.,
of Sullivan & Cromwell, 48 Wall Street, New York City,
Attorneys for Respondents.

RALPH C. BINFORD, Attorney for the Securities and Ex-
change Commission.

Charles E. Michel—By Respondents—Direct

7699

PROCEEDINGS

The Examiner: The hearing will come to order.

Whereupon, CHARLES E. MICHEL resumed the stand and testified further as follows:

Direct Examination by Mr. Hamilton (Resumed):

Q. You testified yesterday, Mr. Michel, that Laclede Power & Light also provided electric service to St. Louis, and that in addition there were sales by the Union Electric Group to three municipalities, which distributed over their own distribution lines, and that there were certain very minor sales by cooperatives in the territory.

7700

Other than those three groups which I have named, is there any electric service sold or provided by any other electric utility in the territory covered by the Union Electric Group? A. No, sir; there is not. We serve the entire territory with the exception of those that I gave yesterday.

Q. You testified yesterday also that during the period from 1919, I believe, to 1924, you had served in a dual capacity in St. Louis, and also with the Milwaukee Electric Railway & Light Company. During that period of dual service, just what did you do in Milwaukee? A. I was assigned by the executives of the North American Company to go to Milwaukee and study the merchandising situation.

7701

—3,252—

I did. My first visit extended over some two or three weeks, and I at that time surveyed the buying habits of the people of Milwaukee.

7702

Charles E. Michel—By Respondents—Direct

I then made a careful survey of the company's policies in connection with promotion work, in connection with their relations with dealers, in connection with their types of merchandise which they handled, and so forth.

At the end of that time I realized that the first thing that had to be done was to provide proper quarters for the merchandising department to operate in. I arranged with the architect for the construction of such quarters. They were actually built, and after they were built I took charge of the actual operation of the department.

7703

I made a clean sweep of the type of merchandise that was being handled, appraising it item by item with the merchandise that my experience had indicated to me was the best for the public use, and also called meetings of the dealers, and very frankly explained to those dealers our objectives and what our present methods would be.

7704

When I went there I found the revenues from their merchandising operations, which included not only the appliance business but certain jobbing work that they did in connection with wire and motors and things of that kind, ran to about a little over \$300,000 a year. The merchandising business itself, as I remember it—this is a long time ago—was about \$75,000.

—3,253—

At the end of the five-year term, when I left there due to press of business in the St. Louis office, the sales had run up to in excess of \$1,000,000 a year.

It was not always easy to substitute the type of merchandise that I was quite convinced was best, in the Milwaukee situation.

Charles E. Michel—By Respondents—Direct

7705

I might give you just one example. It was in connection with washing machines. In those days they had what they called the Dolly type washing machine. It consists of three little pegs extending down into a tub, and the motor on top worked it back and forth. It was an obsolete type of washer even then, but it sold for about \$45 or \$50.

I substituted for that washer a washer that sold for about \$100, and Mr. Way felt that I was going too far, that I was trying to put too expensive merchandise over on the public in Milwaukee, and I had quite a long time convincing him that the other was obsolete and out of the picture, which has since proven to be true. You couldn't buy one today to save your life.

7706

That is just one example of the changes that were made in order to accomplish the results that we did accomplish.

Then our relationship with the dealers was very satisfactorily set up. We did not camouflage the situation at all. In open meetings I explained to these dealers that we were

—3,254—

not philanthropists but that incidentally our objective and their objective was a common objective, that what we were interested in was getting out on the lines the maximum amount of domestic utilization equipment that could be used by our customers to advantage because of the fact that that helped build our load, which in turn had very definite beneficial effect on our rate structure, and that they were interested in the selling of the maximum amount of merchandise, and that consequently we were there to help them and not to hurt them.

7707

7708

Charles E. Michel—By Respondents—Direct

They accepted that situation and we went along, and to my belief they are still operating along those general lines.

Q. During the period of five years you have referred to, how frequently were you in Milwaukee on the business of the Milwaukee Electric Railway & Light Company? A. When I first went to Milwaukee, I used to spend close to two weeks out of each month, until such time as I got over the rather arduous task of reconstruction of both the physical facilities and the organization. My memory would say that that was about two years.

7709

At the end of that time I cut my visits down to about every other week, and would spend three or four days there.

Then the situation in St. Louis became such that more and more of my time was required there. You realize that I was sales manager of the St. Louis organization, having the merchandising business under me also, and I finally had a schedule of leaving St. Louis on Friday afternoon,

—3,255—

7710

arriving in Milwaukee Saturday morning, working Saturday and Sunday, leaving there Sunday evening and back on my job in St. Louis on Monday morning—and I carried that through for some two years, as I remember it, before I relinquished the direct visits to Milwaukee, after which time, at the request of Mr. Way, I acted as a consultant whenever they wanted to talk to me about matters. They would come to St. Louis at times, and at times I went to Milwaukee for consultation when changes were in the wind.

Q. During the period of your active service in Milwaukee, were you in charge of the merchandising of the Milwaukee Electric Railway & Light Company? A. I was; yes, sir.

Charles E. Michel—By Respondents—Direct

7711

Q. In the field of your sales work, does the Union Electric Company of Missouri interchange information with other subsidiaries of the North American System? A. Oh, yes; oh, yes.

Q. Will you indicate the nature of that information, and indicate also how frequently that interchange occurs?

A. Well, the principal interchange of information at the present time consists in the interchange of advertising material. That material, of course, is gotten up by the different companies after their sales policies have been determined, and their objectives set forth, and the publicizing of the

7712

—3,256—

merchandise or the policies are put in the form of newspaper advertising, booklets, pamphlets, or what-not.

We boys in the sister companies interchange that advertising constantly. It comes over my desk in a constant stream, and I read it carefully, and route it to that portion of the sales department in which I think it will do the maximum good.

7713

I might give just one example. There is a little patented figure known as "Reddy Kilowatt" that is being used by certain utilities for the purpose of being able to talk in a more familiar manner to their customers in their advertising,— "Reddy Kilowatt does the talking; he tells how good an electric range is", and so forth.

Frankly, I was not very well sold on the use of that sort of a device, I didn't like it, but I kept reading these ads that came through from Milwaukee, Frank Coffin used to send them to me, he is the vice president in charge of sales at Milwaukee; and Harold Brooks of Washington, and I gradu-

7714

Charles E. Michel—By Respondents—Direct

ally changed my mind on the subject, and determined to try the little gadget out.

I went into it in a very modest way to start with, I wouldn't let it appear in any of our institutional advertisements, nor be used in connection with any of our bills or letters that went out to our customers other than the straight merchandising, which is a moderate use of the symbol and of the possibilities of that symbol.

—3,257—

7715

But by constant reading of these advertisements that I have been receiving from these other companies, I have enlarged the use of the symbol and I think to the very definite advantage of our company.

That is just one example of the type of information that we get out of these advertisements that come in. There are numbers of others that I might mention.

Q. What does this advertising material consist of that you have referred to? A. The advertising material consists of a galley-proof of the newspaper advertising, of the booklets that are gotten out, of the pamphlets and all types of advertisement which is put out to reach the public.

Q. The material is exchanged prior to publication, is it? A. Generally it is received before it even goes out. For instance, in our own case we have a regular schedule for advertising; it is set up the first of the year; the money is allocated, the amount that is going to be spent, by months, the items that are going to be advertised in those months—they are all set up.

Then the ads are drawn, and they are worked on ahead of time, so that we won't have a last-minute rush in getting

Charles E. Michell—By Respondents—Direct

7717

up advertisements, which is a curse to the advertising business.

—3,258—

As soon as those are ready, I send them out to these boys in the sister companies that I deal with, and they do the same thing with me. The consequence is that I get theirs and they get mine usually before they appear in the daily press.

Q. How frequently does this interchange take place? A. Well, it is in more or less of a constant stream. I don't think that there is a week that goes by that I don't receive one or two sets of advertising from the different companies.

7718

Q. Is this interchange of value to the Union Electric Group? A. I think it is very distinctly of value to the company. There is no one man that has got a corner on all the ideas, and the ability to put them over, and if you can consult in an intimate way and get intimate details from other sales managers who have had a wide experience, and a record of achievement behind them, it is undoubtedly of value. That applies to me or to any other man in that line of work.

7719

Q. Do you know other sales managers of other subsidiaries of the North American Company personally? A. Oh, I know them very well.

Q. Do you see them on various occasions? A. Yes, sir; I do. I generally see these men at one of the national meetings that occur, one of the national committee meetings, or one of the general conventions. That is almost a constant

—3,259—

thing, and I see them at those meetings.

7720

Charles E. Michel—By Respondents—Direct

Q. Do you see them only at the general meetings? A. No, I don't see them only there, but that is the majority of the contact at the present time.

7721

Q. Do you discuss sales problems with these other sales managers whom you see at the meetings? A. Oh, yes; with George Miller, of Cleveland; Harold Brooks, of Washington; and Frank Coffin, of Milwaukee. We make it a practice to get together and have some very intimate discussions of our several problems. We exchange information on rates, on prospective business, and matters of that kind.

Q. Do you mean by your statement that you meet with these gentlemen independently of the industry meeting at which you all happen to be present? A. Oh, yes. The type of information that we discuss when we get around a little round table is totally different from that which we would discuss over the table with a group of 25 or 30 independent sales managers.

7722

Q. You might elaborate on that a little further, if you will? A. Well, I can give you an example of something that occurred within the last 60 days.

The sales executive conference was held in Hot Springs, Virginia, at which there were about 40 of the vice presidents in charge of sales of the different utilities throughout the

—3,260—

country present. At that conference was Frank Coffin and Harold Brooks and George Miller and myself, and the incident that I have in mind first occurred in the general meeting, at which the vice president in charge of sales of one of the large utilities in the country got up to discuss rates, line extension practices, and so forth, in connection with large

Charles E. Michel -By Respondents-Direct

7723

industry, and he mentioned the fact that a very special problem had arisen in connection with one industry, and then frankly stated, "I won't identify that industry, because Charlie over there I am quite sure is figuring on the same job".

Mr. Browning: He was pointing to you at that juncture?

The Witness: Yes, pointing to me. He called me "Charlie".

So after the general meeting adjourned, and I was sitting in social conference with the executives of our sister companies, I had identified this job to my own satisfaction, and I disclosed it to these men, and then I found out that Frank Coffin in Milwaukee was figuring on the same job.

Now as distinguished between the type of conversation that occurred between this gentleman who brought the matter up in the general meeting, and Frank and myself, Frank frankly told me all about the job and I asked him to send his rates and what he was doing in connection with that job, and he said that he would just as soon as he got back. He did send the data to me and not only sent me that sort of information but he sent me some very important information in connection with the type and char-

7724

acteristics of the load that were totally different from my understanding of the characteristics of that load, and on which I had already made a proposal, and it caused me to quickly withdraw the proposal I had

—3,261—

7726

Charles E. Michel—By Respondents—Cross

already made and make another proposal to this prospective customer, which I sent to Frank, or a copy of which I sent to Frank, of course.

By Mr. Hamilton:

Q. Are these contacts with other sales managers of North American subsidiaries of value to the Union Electric Group?

A. Yes, sir; I definitely think they are.

Q. Is your relationship with these sales managers of the North American subsidiaries different from your relationships with sales managers of non-affiliated companies?

A. Oh, yes; there is quite a fundamental difference. In the case of the average sales manager of the general utilities, our discussions are largely confined to the broad fundamental basis of the sales problems, whereas my relationships with the sales managers of the North American subsidiary group, are in relation to the details of the specific objectives and how they are to be accomplished.

Mr. Hamilton: That is all.

7728

Cross Examination by Mr. Binford:

Q. Mr. Michel, throughout your testimony you have referred to the Union Electric "Group"? A. Yes, sir.

—3,262—

Q. I don't believe at any point so far you have definitely stated the names of the particular companies which you include in that group, as you speak of it. Will you please give those names? A. May I give them out of my papers? I have got them in my mind, but I would rather be specific about it.

Charles E. Michel—By Respondents—Cross

7729

Q. Surely. A. They are: The Union Electric Company of Missouri; the Union Electric Company of Illinois; the Iowa Union Electric Company; the St. Charles Electric Light & Power Company; the Lakeside Light & Power Company; and ~~Mississippi~~ River Power Company.

Q. You are vice president in charge of sales of the Union Electric Company of Missouri, is that correct? A. That is correct.

Q. Do you occupy any office or position with any of the other companies which you have identified as being included within your definition of the Union Electric Group? A. No, sir; I do not occupy any elective office, nor appointive office, with those, other than the charges that have been placed on me as to the general promotion and handling of the sales work for the entire Group. 7730

Q. You didn't include in your term "Union Electric Group", the St. Louis County Gas Company? A. No, sir.

—3,263—

Q. You have nothing to do with the sales end of that company? A. No, sir; I do not.

Q. Are any of the members of the personnel working under your direction employed by any other company than the Union Electric Company of Missouri? 7731

Mr. Browning: May I suggest that counsel define "employee" for the witness?

Mr. Binford: I think the term is one well understood, isn't it?

Mr. Browning: No, my point is that it would consist of at least two things: first, whether the employees of the sales department render any services

7732

Charles E. Michel—By Respondents—Cross

for the other members of the Group; and, second, by whom they are paid for these services.

Mr. Binford: My question was not directed as to whether they perform services for the members of the Group, but as to who hired them and fired them.

The Witness: On the basis of your last remark as to who hired and fired them, no, sir, those men are not under me directly, not under my direct supervision for that purpose.

7733

By Mr. Binford:

Q. By whom are they employed in the first instance? A. By the district executives operating the different districts that I have named, of the subsidiary companies.

—3,264—

Q. Are they all on the payroll of the Union Electric Company of Missouri? A. Do you mean are all of the men—

Q. (Interposing) All of the personnel working under your supervision? A. Under my supervision?

Q. Yes. A. Yes, sir.

Q. But excluding the district managers and district personnel of which you have spoken, is that true? A. Yes, sir; they are not under my group, but when you say "under my direction", their exact connection with one of the Group does not necessarily mean that I do not direct the operations of some of those men. I must give an example to explain what I mean.

In the case of the Union Electric Company of Illinois, just to take one single example, the merchandise manager of that company is almost exclusively directed by me, or

7734

Charles E. Michel—By Respondents—Cross

through me by the merchandise manager in the St. Louis office. He wouldn't dream of making a move in his merchandising operations without consultation with the headquarters group, as I call it.

Q. Can you state how many persons of the personnel operating under your general direction and concerning whom you have previously testified, is employed directly, that is to

—3,265—

say, is on the payroll of Union Electric Company of Missouri, as distinguished from the subsidiary companies? A: I can, I think, from the information that I have here.

302 out of a total sales personnel for the Group of 335.

Q. Upon what payrolls are the remaining members of the personnel in question carried? A. There are two on the payroll of the Lakeside Company, 21 on the payroll of the Union Electric Company of Illinois, and 10 on the payroll of the Iowa Company.

Q. Then is it correct to state that all members of the personnel operating under your general direction are carried on the payroll of the Union Electric Company of Missouri except 2, who are actually located at the Lakeside property, and 10 who are located in Iowa? A. And 21 in Illinois.

Q. And 21 in Illinois? A. Yes. They are on the payroll of the Union Electric of Missouri, but there is charged to these other companies portions of their salaries and traveling expenses incident to the trips that they make into those territories, and the work that they do for them.

Q. Could you state the aggregate cost, including salaries and wages, for the sales work that has taken place under

7738

Charles E. Michel—By Respondents—Cross

your direction for the calendar year 1939? A. I can, sir. As

—3,266—

a controlling percentage for the operation of the sales department of the Group, we set up $2\frac{1}{2}$ per cent. of the gross revenue derived, of the gross sales, I should say, less inter-company sales, which are deducted.

For the year⁸ 1939, the total sales promotion expense, which covers supervision, salaries, commissions, demonstrations, and advertising, miscellaneous expense, and rents,

7739 amounted to \$675,789.98.

Q. Do you also have the figures showing in dollars how that was allocated among the respective companies? A. I do not.

Q. But it was allocated upon the basis which you have indicated? A. Yes, this is a consolidated figure taken from the statements of all of the companies.

(Discussion off the record.)

By Mr. Binford:

7740

Q. Would you care to state again just how the allocation of that expense was made as among the respective companies involved? A. I can't give the accounting details on that, I am not entirely familiar with them. I do know that the men who are employed by the different companies, that their salaries and expenses are charged to those companies. I do know that a portion of the cost of the Union Electric Company of Missouri headquarters staff is allocated to other

—3,267—

companies when they go out and serve those other companies.

Charles E. Michel—By Respondents—Cross

7741

Q. But you do not know the basis upon which that allocation is made? A. I do not.

Q. Do you know who makes that allocation? A. My answer would be a guess, and I would rather say that I do not know.

Q. Certain portions of the overhead expense of the sales department located in St. Louis are allocated, however, to the subsidiary companies of the Group, is that true? A. I would call them operating expenses rather than overhead. I don't know just what you mean by "overhead".

Q. Let us say, for instance, such charges as rent and items of general supervision which can not be specifically attributed to one particular job, but which, nevertheless, are items of expense of the sales department—are those expenses not apportioned in some way among the companies supposedly benefited thereby? A. I would say that in the case of rent, no, they are not. The Union Electric Company of Missouri and its several divisions pay their own rents. I do not believe that those rents are apportioned between any other divisions of the company.

However, I must say that I can not make a definite answer to that question, I am not familiar with the account-

ing procedure.

Q. You are likewise not familiar with any allocation that may take place as to advertising expense, I presume? A. No, sir; I do not know, I haven't it in my mind. They can get it for you (indicating Respondents' Attorneys), but I haven't it.

Q. You would say, would you not, however, that the promotional advertising, particularly of the merchandising

7742

—3,268—

7743

7744

Charles E. Michel—By Respondents—Cross

type, probably operates to the benefit of all companies in the Group as well as to the benefit of the Union Electric Company of Missouri? A. Yes, sir, it would, and that advertising is usually taken by the different groups and used in their own local papers, they placing their own advertising in their own papers. That is, the definite assignment of advertising to newspapers outside of the corporate limits of the City of St. Louis, is not handled by the St. Louis group, but by the men in direct charge of the divisions.

7745

Q. The St. Louis newspapers' circulation, however, as a matter of common knowledge, is not confined to the corporate limits of the City of St. Louis, is it? A. No, it is not; no, sir.

Q. I believe you testified that the Union Electric Group maintained 26 stores? A. That is correct, sir.

—3,269—

Q. Could you state the location of those stores, please? A. No; I can give you a number of them.

(Discussion off the record.)

7746

The Witness: No, sir; I haven't with me the exact location of those stores; I can name several to you, if you care to have an incomplete statement.

By Mr. Binford:

Q. Could you state approximately how many of those stores are located in the City of St. Louis? A. Yes, sir; four. And the original main office.

Q. All the other stores, then, are located in territory not served directly by the Union Electric Company of Missouri,

Charles E. Michel—By Respondents—Cross

7747

is that correct? A. No, sir; that is not correct. For instance, in St. Louis County, there are five stores; and in the outlying plants of the Union Electric Company of Missouri there are most of the balance of the 26 stores. You will find that at Lakeside there is one store, and in Illinois there are three stores; in Iowa there are three stores; and in the Union Electric of Missouri territory there are 19 stores.

Q. Are these stores owned and operated by the particular companies in the service area of which the stores are respectively located? A. My answer would be an assumption. I know nothing about that, I think that is true, but I don't know it. 7748
—3,270—

Q. Who would have control of that situation, or knowledge of it? A. Well, I assume that one of the executives of the company would, one of the top executives.

Q. Do you know whether or not wholesale purchases or purchases from jobbers for these several stores are made jointly? A. We buy in St. Louis through our merchandising manager, and stock merchandise in our warehouse. That merchandise is drawn on by many of the different divisions. I cannot make the statement that all of it is so handled. I am under the impression that in the Illinois and the Iowa territory, their orders are placed direct, that they do not pass through the St. Louis organization. However, if they want any merchandise that we have in our warehouse, we would be glad to let them have it, and they would draw on it. 7749

Q. When merchandise is so supplied to any subsidiary by the Union Electric Company of Missouri, do you know if it is supplied at cost to the Union Electric Company of Mis-

7750

Charles E. Michel—By Respondents—Cross

souri? A. You are in an accounting matter again that I really can't answer.

Q. I believe you testified yesterday that among the divisions of your sales staff, there was a group called a dealer sales group which handled the cooperation between your

—3,271—

7751

organization and what you characterized as "the extensive dealer organization that is cooperating with the company throughout its district in the prosecution particularly of merchandising sales."

Now is there a dealer organization whose activities extend over the territory, over all the territory served by the Union Electric Company of Missouri Group? A. Your question, as I understand it, is: Does the dealer organization extend throughout the Union Electric Group?

Q. Yes. A. Certain of them are, certain of them are not.

Q. But no one particular group? A. I can say that the jobber group to a large extent would cover the entire district. I would say that practically no independent retailer covered any such group.

7752

Q. For instance, the dealer organization in Iowa would probably not be the same dealer organization that operated in St. Louis? A. No, sir; it would be a totally different dealer organization, excepting in so far as certain of the suppliers are concerned. The jobber is what I am referring to. The jobber who handles St. Louis in many instances handles the Keokuk district. I well know that, because when they have problems in Keokuk they come to me for advice on how to handle the situation. So that I happen to know the jobber situation. I also happen to know that there is no retailer of

—3,272—

Charles E. Michel—By Respondents—Cross

7753

merchandise in the St. Louis organization that is also a retailer in the Iowa group.

Does that answer your question?

Q. Yes. Now the jobbers' organization—is that a national organization or an organization covering the Middle West as a whole? A. There are 30 jobbers doing business in electrical merchandise in our territory. We will take, for instance, the Graybar organization. It is a national organization with its main headquarters in New York, and doing business in every large city in the United States, with local offices, and in all of the small cities through traveling men. That is just one of them.

We have local jobbers in St. Louis as well as national jobbers, they are of two kinds.

Q. Out of what jobbing center would the stores, let us say, in Keokuk, be served normally? A. I really couldn't answer that question.

Q. You wouldn't state positively that it would be St. Louis? A. I wouldn't say that positively, no, sir.

Q. In other words, the aggregate territory served by the Union Electric Group of companies is not such a territory as to be regarded as peculiarly one unit by the jobbers, is it? A. I would say that that statement is not correct. When we work up our campaigns, one of the important

7754

—3,273—
things that we do is to pull the jobber organization in first, even before the dealer gets in. We ask his advice, we tell him what we are intending to do on a system-wide basis. We frequently alter our original plans by learning something from some man in the jobbing organization, and then

7755

7756

Charles E. Michel—By Respondents—Cross

that jobbing organization, if it happens to be a national organization, passes it through to its home office for operation throughout the Union System, the Union Electric System.

7757

Where it is a manufacturers' organization such as the General Electric, the Westinghouse, the Landers Frary & Clark Company, it goes through the manufacturer to all districts, because we send to those manufacturers details of the plans we intend to put in, together with the advertisements that we intend to run, and tell them, "Now get your gang behind this".

Q. However, you would not characterize the territory served by the Union Electric Company Group as constituting a natural, what might be described as a jobbing area, a single jobbing area, would you? A. Oh, yes, sir, I would. You take the concentration along the Mississippi River, Illinois, Missouri, and Keokuk properties, and they look to me like they would be covered by practically the same men. I can't make the statement that they are, but it looks perfectly normal that they should be.

7758

Q. Just to clarify the record, I believe you referred yes-

—3,274—

terday to the sale of electric ranges on your Group's line as representing a "saturation" of approximately 8.3 per cent. Does that mean that approximately 8.3 per cent. of the residential customers on these lines now possess electric ranges? A. That is correct, sir.

Q. It doesn't take into account the persons who are merely potential customers, but are not connected? A. No, sir, that figure is arrived at by taking the total sale of electric ranges in the district, making certain allowances for dis-

connects, and replacements, and then relating the ranges that remain connected to the total number of residential customers.

Q. I suppose the same observation applies to your statement that the saturation percentage in respect to electric refrigerators was approximately 87 per cent.? A. That is correct, yes.

Q. You testified that the problem of street lighting was a highly specialized problem, and you described somewhat in detail the procedure followed in attempts to sell street lighting systems to small cities. Is that work all handled under your direction? A. Yes, sir, the work of the surveys, the layouts, the proposals, and the sale of that final plan is handled under my direction.

7760

—3,275—

Q. Your division handles appearances before municipal councils or local governing bodies that may be necessary in that connection? A. If we are asked to do so, yes, sir, we do; yes, sir.

Q. That is not handled in any instances by the executive officers of the company or by the attorneys of the company? A. "Any instances" is a pretty broad statement, and I can't make that general statement. But not to my knowledge I can say.

Q. I believe that you testified you entered the service of Union Electric Company of Missouri in 1907 as manager of the electric automobile department? A. That is correct.

Q. Had you had any connection with the public utility business before that time? A. I graduated and went directly to the Burlington Railroad. I graduated in 1896 and

7761

7762

Charles E. Michel—By Respondents—Cross

entered the service of the railroad after two months' summer vacation, and was continuously with the Burlington Railroad until I transferred to the Union, and I have held but two jobs in my life.

In the Burlington Railroad my experience was first as a clerk in the advertising department, then assistant to the advertising manager, and then traveling passenger agent in the most densely populated territory that the Burlington had.

7763

Q. Then, other than with the Union Electric Company Group, and the special work that you did in Milwaukee, con-

—3,276—

cerning which you have testified, you have not been otherwise employed at any time by the North American Company or by any of its other subsidiary companies? A. When you say "employed", do you mean paid money by them?

7764

Q. Yes. A. No, as far as I know I have never received a check from anybody except the Union Electric Company of Missouri and the Milwaukee Electric Railway and Light Company. But to be technical, if my salary is apportioned on work that I do for these other divisions, then I would say that from a salary standpoint I must be employed.

Q. But as to that apportionment, you do not know? A. I do not know, I can't answer that.

Mr. Browning: That last answer of the witness was relating to other members of the Union Electric Group, I take it.

The Witness: Entirely.

Charles E. Michel—By Respondents—Cross

7765

By Mr. Binford:

Q. And now you testified yesterday in respect of developments fostered by the Union Electric Company Group as to the melting of gray iron? A. Yes, sir.

Q. I believe you stated that St. Louis was one of the first cities where that was successfully carried through? A. Yes, sir.

—3,277—

Q. By means of an electric furnace? A. Yes, sir.

7766

Q. Where was that process originated? A. At the McQuay-Norris Piston Ring Company in St. Louis.

Q. However, it had been originated, that is to say the method, before your company adopted it, had it not, and fostered it? A. I may answer that question in this manner, that the industrial heating engineer employed by our company at that time told me that that was the first installation of an electric furnace for the heating of gray iron for the type of iron that was desired, at any place in the United States. I do not know that to be a fact from personal knowledge.

7767

Q. And you don't know where the idea came from? A. No, I can't tell you where the idea came from.

Q. Now, as to a second development of which you spoke, namely, infra-red heating, I believe you stated that that was developed in the Ford Motor Company plant? A. Yes, sir.

Q. And thrown open to the public? A. That is correct.

Q. Since which time your company has promoted its use? A. Extensively. Possibilities of that type of installa-

—3,278—

7768

Charles E. Michel—By Respondents—Cross

tion are limitless, and we are working on innumerable different jobs, some of which are entirely original. There is a job going on in St. Louis today, which I cannot speak of, but it has to do with the preparation of mirrors in which infrared heating is concerned; that, if successful, will revolutionize the industry.

Q. Now in speaking yesterday of the industrial heating division of your sales organization, you said: "The results of the promotion by this division I can sum up very quickly", and then you continued as follows:

7769

"The load in ten years has been increased by 27,713 kilowatts, and at the present time, that is, as of January 1, 1940, stands at 83,815 kilowatts."

7770

You do not mean to indicate, I assume, that that increase in load was due solely to the promotional activity of the particular sales division which you mentioned? A. The word "solely" makes me answer that no, but I will say that that load, a large portion of it, a very large portion of it, is due to the promotional and intelligent information and advice given to manufacturers by the industrial sales force of the Union Electric Company of Missouri.

Q. Isn't it true that in the past ten years, industrial loads throughout the electric public utility industry in general have risen at a somewhat comparable rate? A. I don't know the percentage at which it has risen, but you are talking now

—3,279—

of a specialized load and not of a general load. You take the general load in the industrial business and it goes up, but when you talk of industrial heating, it is another matter. Now, if you are referring just to the work done by the indus-

trial salesmen, that covers preliminary work on heating as well as the general power work, and of course that man has not been responsible for all of that load. He may have been responsible for a very large percentage of that load, because there is nothing but 50 kilowatts and up in there. And when he goes into a factory and shows a factory manager how to change from one process to another, which uses the electricity, he is only one factor in the ultimate change that is made, but he is quite an important factor, and we try diligently to be the original factor in that, by bringing to the attention of these manufacturers the possibilities of a change from some other type of power or heating or lighting, or air conditioning, and so forth, to the modern electrical type.

7772

Q. But you do not know, do you, whether the particular increase in this specialized load for the past ten years in your group is materially higher than the growth of the same specialized load in the industry as a whole? A. Now before I answer that, I am somewhat confused in reference to your figures and statement. If you are speaking of the industrial sales staff and their achievements, that is one thing. If we are talking about the industrial heating job, that is a totally

7773

—3,279-A—

different group, a totally different method of operation, and I don't know which one to talk about.

Q. Will you please turn to the transcript of the testimony of yesterday, at page 3,206 and toward the bottom of the page you will notice the figures which you gave yesterday. A. This is in reference to the industrial heating load.

Q. Now that is the load of which I have been speaking. A. Well, you see I am speaking of two different loads. I

7774

Charles E. Michel—By Respondents—Cross

have been talking of the general power load, which is gotten by the general power salesmen, and the industrial heating load, which is gotten by the industrial heating division, and this has to do with a highly specialized type of operation.

Q. Well, is it clear now of which load I am speaking?
A. It is.

7775

Q. Now with reference to this specific load, I again ask if it is not true that the increase during the past ten years in the industry as a whole, of this specialized type of load, has not been somewhat of the same order as the increase as shown by your company? A. I can't answer the question, I don't know the national figure on the increase in industrial heating load, and I couldn't answer it unless I did know that figure.

Q. Therefore, you would not, on the basis of your present information or lack of it, claim that this increase was

—3,280—

7776

unique with the Union Electric Group? A. Well, my lack of information has to do with national figures, which I don't carry in my head. That is almost impossible. I do believe that the achievements of the St. Louis industrial heating group have been outstanding when you consider the type of the city, of its industrial life, and the lack to a large extent of users of very large furnaces, such as are found in some of the eastern cities, such as Pittsburgh, and places of that kind. We have not that type of load available to us, but when you consider the type of load that is available in St. Louis, I think that they have done an outstanding job.

Q. You would say, then, that each territory served by a utility must in general be judged by its own peculiar

Charles E. Michel—By Respondents—Cross

7777

characteristics, is that true? A. I would say that that is true, when you are talking again of specified loads at this time, and that is what we are discussing, as I understand it, and that is true, because it is perfectly obvious that if there does not exist in the territory the types of business that can use very large electric furnaces, and other special equipment of that kind, that that utility simply can't pick up additional industrial heating load to the same extent that it can be picked up in some other district that happens to be saturated with the type of business that uses that type of furnace.

7778

—3,281—

Q. The same thing is true, is it not, as to residential loads, particularly when you have such type of territory as you described in the rural area near the Ozarks? A. What do you mean by "the same thing is true"?

Q. That is, as to each territory having its own problems which are very distinct from the problems of another utility, let us say. A. The basic, fundamental problems are much the same, but they are definitely influenced by the type of community that is to be served, yes, sir, that is true.

7779

Q. You spoke yesterday, and amplified your remarks this morning on direct examination, in respect to the LaClede Power & Light Company's operations. A. Yes, sir.

Q. The operations of that company are in direct competition with the operations of the Union Electric Company of Missouri in the city of St. Louis, are they not? A. That is correct.

Q. That their lines are parallel to each other? A. Through a certain section of the city. As I believe I have

7780

Charles E. Michel—By Respondents—Cross

already testified, in the southwest section of the city, where the density of population is not what it is in most other sections, they have no lines at all, they haven't extended their lines into that territory.

Q. Do you cooperate with that company in advertising, or otherwise? A. I do not.

—3,282—

7781

Q. I presume they also advertise, or do you know? A. No, sir, the LaClede Power & Light Company does not advertise and promote the use of electrical merchandise through the residential customers in the manner in which I am talking about.

Q. But they, I would infer, probably benefit from your promotion along those lines, is that correct? A. You put your finger on it.

Q. Now you spoke of the program of the Union Electric Group, of rural electrification? A. Yes.

Q. And described the methods used in promotion and in extension of lines? A. Yes.

7782

Q. This extension of rural electrification has been primarily from the St. Louis area, has it, rather than from Keokuk or somewhere else? A. You mean the extension into the rural districts?

Q. Yes. A. In the Missouri territory, you mean, rather than St. Louis?

Q. I mean has it been in the Missouri territory? A. It has been primarily there because the vast majority of our

—3,283—

rural territory lies in Missouri. We have a very, very meager amount of rural territory around the Keokuk prop-

Charles E. Michel—By Respondents—Cross

7783

erties, and a very small amount around East St. Louis and Alton. The territories there, both of them, are practically covered, because they are just little fringes around the cities. We have no real rural territories other than in Missouri, to any extent.

Q. Now your rural extension program around and out from the St. Louis service area has been, has it, into territory not served by any electric utility prior to your entry into the field? A. You mean that we have not extended our lines into some other utility's territory, and taken their lines?

Q. Yes. A. No, excepting that we have acquired different utilities out in those districts, and as we have acquired them, we have extended the system out in those towns, and most of those were in little towns.

Q. But other than your acquisition of systems, your extension of lines has been to serve people not theretofore served by electricity, is that true? A. That is correct, sir, within the territory in which we hold certificates of necessity and convenience.

The Examiner: We will take a short recess.

7785

(A short recess is taken, after which the hearing is resumed.)

—3,284—

The Examiner: Let us resume.

By Mr. Binford:

Q. Now in connection with the rural electrification program, I believe you testified yesterday that your group caused a magazine, "Electricity to the Farm", to be mailed to 1,200 farmers, possibly, each month without charge? A. Yes, sir.

7786

Charles E. Michel—By Respondents—Cross

Q. Now by whom is that magazine published? A. It is a national organization, the name of which I am not familiar with. It is purchased by utilities throughout the country, has general information on farm equipment, and has an advertisement by the particular utility that purchases a certain quantity on the back page of the magazine. The name of the organization that publishes it, I am sorry I can't give you.

7787

Q. That magazine is then purchased by private utilities throughout the country and mailed out? A. That is my understanding.

Q. Now just to clarify the record, yesterday, in speaking of the extensions which you had made into rural areas, you stated in substance that your men regarded it as prospective customers all persons within a thousand feet of the extension lines, and that as of the first of the year, 60 per cent. of all of these prospective customers, as so defined, had taken elec-

—3,285—

tric services? A. Yes.

7788

Q. I assume that you meant heads of households; you didn't classify people by number of persons but by households? A. That is correct, and I would like to make a further statement with reference to that, that classifying them as prospective customers, and using the 1,000 feet figure was simply for the purpose of estimating the possible revenues from the line on the theory that we could make service drops for the 1,000-foot customers, whereas, if he was further than that, a further extension of the distribution system was probably necessary. There were more customers than that possible in the district, but those are for the purpose of estimating revenues from the extensions.

Charles E. Michel—By Respondents—Cross

Q. I merely wanted to get the record correct as to what you meant by "persons," and I thought you regarded families as units. A. Yes, I was talking about houses.

Q. You identified yesterday Respondents' Exhibit No. 61 which was thereafter received in evidence, which is a graph showing certain comparisons in respect to residential service as supplied by Union Electric Company and subsidiaries, and on the other hand computed upon a national average. I believe you have a copy of that exhibit before you? A. I have.

-3,286-

Q. Now the greater portion of the residential service in respect both of kilowatt hours and of costs, that is to say receipts, rather, supplied by the Union Electric Company of Missouri and its affiliated companies in that Group, is supplied to urban customers, is it not? A. A great majority?

Q. Yes. A. That is correct.

Q. Is that true of the customers upon which the national average is computed? A. The data covered for residential customers was for urban, rural, non-farm and farm, where little or no irrigation is involved. That is the statement of the Edison Electric Institute in the bulletins from which these data were taken.

Q. So, taken as a whole, you would not necessarily say, would you, that the figures for national average and the figures for the Union Electric Group represent comparable classes of consumers? A. In the absence of definite knowledge on the percentage of rural and urban customers in the national averages, I couldn't answer that question.

7792

Charles E. Michel—By Respondents—Cross

Q. That detracts somewhat from the significance of the comparison, then, doesn't it? A. No, sir. I, in my own mind, would say not because I think that the Union Electric Group territory is quite typical of the average. I don't know that,

—3,287—

but that is my opinion.

Q. You spoke of sales to other utilities, do you handle those sales? A. I am involved in a great many of them. Many of them I handle personally. Some of them I do not.

7793

The inter-company sales I have nothing to do with, but the sales with the other utilities are handled by me in connection with the executive head of the division that serves the company, and I will say this, that the rates in connection with those different companies are a product of the sales department's thinking in connection with the rate engineers, and with the hydraulic men in the company having to do with our water power plants and so forth. I am intimately connected with those sales.

Q. When you speak of the intercompany sales, do you include only those companies which you have identified as

7794

being within the Union Electric Group, as you have used the term? A. Now I can't make the definite statement on that. We have on our statement "intercompany sales", and I, without guessing, could not tell you precisely what companies are involved in that "intercompany sales". I can't answer that. I can get the information for you without any difficulty whatsoever, but I don't have it in my mind.

Q. You don't know whether Illinois-Iowa Power Company is one of those companies? A. I am not sure, that is the very reason I can't guess; I am not sure of that.

—3,288—

Charles E. Michel—By Respondents—Cross

7795

Q. What are the utility companies, sales to which you do handle, what are the names of them, if they are not too numerous? A. You mean the utility companies to whom we sell service?

Q. Yes. A. I can give them to you.

Mr. Browning: Could you state what year the figures are for, or do you want just the names of the companies?

Mr. Binford: Just the names.

The Witness: The names of the companies are as follows:

7796

Arkansas-Missouri Power Company; City of Farmington; City of Kirkwood; East Missouri Power Company; Missouri Electric Power Company; Illinois-Iowa Power Company; Western Light & Telephone Company; Central Illinois Public Service Company; Iowa Electric Company; Iowa-Southern Utilities Company; Missouri Power & Light Company; Nauvoo Electric Light & Power Company; Van Buren Light & Power Company; Wever-Electric Company; Denmark Light & Telephone Company; and the Town of West Point.

7797

By Mr. Binford:

Q. Other than the Illinois-Iowa Power Company, all of these sales are handled by you or under your supervision?

A. To a greater or less extent. In some of the cases my work has been purely that in connection with rates. In other cases I have personally conducted the negotiations

7798

Charles E. Michel—By Respondents—Cross

with the executives of these other companies for the sale of that power.

Q. Now with respect to rates and rate changes, I gather from your testimony that your sales department has general charge of that work, of those determinations, is that true? A. That is correct, sir.

Q. How far does that work go, does it go to the extent of appearing before regulatory bodies for approval of changes in rates? A. If I may explain, the extent to which

7799

we appear before the regulatory bodies has been as follows: After rate changes have been determined on, regardless of the origin and the reason why the change, and the rate and statistical department of the sales department have worked up the rate, and have had it approved by the top executives of our company, we then take that rate up to the commission and say, "Now, to meet this situation (explaining it), this is what we propose to do; this is the number of customers involved; this is the type of rate reduction; how much it will be, and so on."

7800

And by discussing with the rate engineers, primarily, of the commission, we find if they have objections to any features that we have in, or if they have other suggestions as to what they think we ought to do; and we come back, revamp and work over the schedule again to meet these suggestions, and get them approved again, and then we turn them in for regular filing, which is not handled by the rate and statistical department.

Q. But when you spoke of "we" approaching the engineers of the regulatory commissions, do you mean you per-

Charles E. Michel—By Respondents—Cross

7801

sonally or people acting under your supervision or control?

A. I have done it, yes; I have done it on a couple of occasions when the commission has asked me to talk to them, but generally it is handled by the head of our rate and statistical division.

Q. Who is under your supervision? A. Who is under my supervision.

Q. Now you gave certain figures yesterday relative to rate reductions which were not wholly clear to me. You stated, at page 3,245 of the transcript of yesterday's testimony, "in the period September 1, 1919 to June 15, 1940, there were 82 reductions in rates made by the Union Electric Group".

Now in order to clarify that and for example, let us suppose that the Union Electric Company, and each one of its subsidiary companies concurrently made a rate reduction. In your figures, would that be counted as one rate reduction, or would you include as a rate reduction the action of each company taken at that particular time? A. If it was applicable to the system, it is one rate reduction; if it is applicable to a group, then it is a separate rate reduction.

7802

7803

—3,291—

Q. So that if Union Electric Company of Illinois reduced its rates today, and Union Electric Company of Missouri fell in line next week with a similar reduction, that would be included here as two reductions, is that true, whereas if they did it on the same day, it would be one reduction? A. No, sir, the date of the reductions which I have in front of me, and the type of the reduction, which I also have in

7804

Charles E. Michel—By Respondents—Cross

front of me, does not confirm that. When it is a single reduction of a single rate, it has been called one reduction.

(Discussion off the record.)

By Mr. Binford:

Q. So that your testimony is merely confirmatory of the tabulation set forth in Respondents' Exhibit No. 56? A. Yes, sir, that is correct.

7805

Q. You also stated on the same page of your testimony of yesterday, to which I have last referred, that the total reduction is found to be \$6,016,183 per year. How is that figure computed? A. That figure is computed as follows: When we make the rate reduction as of a certain date, that reduction is applied to all of the customers, month by month, for the previous 12 months, or a substantial sampling of all of those customers, and the reduction in the revenue received during those preceding 12 months by the application of the new rate is the reduction that we attribute to the introduc-

7806

tion of that rate.

—3,292—

Now of course it is generally very much smaller than the actual reduction because, when the increased service goes on, there are further reductions that take place, but it only has to do with the application of the new rate schedule to the previous 12 months' service, and how much revenue we would have lost had that service been billed under that rate.

Q. Now the particular figure of \$6,000,000-plus, which you gave, referred to what year, if any particular year? A. That is a totalization of all of the reductions during the

Charles E. Michel—By Respondents—Cross

7807

period under discussion for the service used by the customers affected by the reduction during the previous year.

Q. For the period then from September 1, 1919 to June 15, 1940, approximately 21 years? A. No, sir. If you were to apply that figure, the very minimum you could apply would be \$6,000,000 per year for the years that have passed since the date of reduction.

Q. As an average? A. No, sir, it is a totalization, it is not an average.

(Discussion off the record.)

7808

Mr. Hamilton: Mr. Michel, is the figure of \$6,000,000-plus, which you have given, the sum total of the respective reductions shown on Respondents' Exhibit No. 56?

The Witness: Yes, sir, it is.

Mr. Hamilton: And is each reduction there shown based on a reduction of revenue which would have re-

—3,293—

sulted, if the rates represented by the reduction had been applied to the consumption in the year immediately preceding the date of the reduction?

The Witness: That is correct, sir.

Mr. Hamilton: So that the figures given are not on a cumulative basis?

The Witness: They are not.

7809

By Mr. Binford:

Q. Now I believe you further testified that before rate reductions were put into effect by the Union Electric Com-

7810

Charles E. Michel—By Respondents—Cross

pany or Group, a sampling was made for a period of a year or thereabouts of some ten per cent., in the case of residential customers, of customers affected, to see what the results would be before the rate was made universal? Is that true?

A. That is correct, 10 per cent. per month for a period of one year. The actual process is to go to the customers' file and pull out every tenth card for 12 months, then tabulate the 12 months' consumption, and billing by month, not total, and that would make, for instance, 12 times the number of samples.

7811

If there were 300,000 customers involved, the sampling would be 30,000 customers, and there would be 12 bills for each of the 30,000 customers.

They would then be analyzed and the new reduction, or rather the new rate, applied to each of those individual bills, and that result would then be extended to the residential group. A 10 per cent. sampling has been found, over a

—3,294—

7812

great many years, to be rather startling in its accuracy. That is not true of the large power group, nor to a large extent of the commercial group. In the large power group the rate is applied to all customers affected for a year, month by month, and in the small lighting group, to a much larger sampling than 10 per cent. in order to arrive at the figures.

Q. Then you were not testifying that you put a new rate actually into effect with the customer, or with 10 per cent. of your customers for a year, before putting it in effect for the remaining 90 per cent.? A. Oh, no.

Charles E. Michel—By Respondents—Cross

7813

Q. So that you have no test which you can apply to show what increased service or increased consumption may result from a reduced rate? A. That is an intangible value in which I place but very little value. I am convinced in my own mind that reduced rates in themselves do not produce any considerable additional consumption unless the rates are fair, equitable and are followed with promotion and sales activities to put them over.

Q. But if so followed, as I presume is true in the case of your companies, hasn't consumption historically grown with reductions in rate? A. Yes, sir, definitely so.

7814

Q. You have spoken of interchange of information, adver-

—3,295—

tising material, and other matters between yourself and the individuals in charge of sales in other North American companies. You spoke particularly this morning of the advertising character known as Reddy Kilowatt? A. Yes, sir.

Q. Which you have adopted, to some degree? A. Yes.

Q. Who originated that character? A. Ashton Collins is the owner of the device, and the patents.

7815

Q. Who is Ashton Collins? A. He is an independent operator working this little device throughout the United States to, I believe now, the very definite advantage of the utilities and himself.

Q. He is not connected with the North American System? A. Oh, no. His headquarter offices are in Birmingham, Alabama.

Q. How often do you have contact with the sales managers or the persons occupying that position, whatever their titles may be, of the other North American subsidiaries? A.

7816

Charles E. Michel—By Respondents—Cross

They are at intervals. I would say that on the average we are together about four times a year.

Q. I think the particular occasion that you last mentioned on direct examination, upon which you conferred with several sales managers of other North American companies, was identified by you as being at the conclusion of a

—3,296

general gathering of utility men? A. Yes, sir.

7817

Q. What was that convention? A. It was the sales executives' conference of the Association of Edison Illuminating Companies.

Q. How often do conferences of that character take place? A. Once a year.

Q. Do you attend other conventions or conferences of utility sales executives? A. Yes, sir.

Q. What ones? A. Primarily the general sales committee of the Edison Electric Institute. I am a member of both of those committees. Then there are a number of subcommittee meetings that are held, and I attend those.

7818

Q. How many such meetings, including subcommittee meetings, do you attend during a year? A. I would say that at the present time I will average maybe four or five, possibly six, meetings in a year.

Q. And those meetings, I assume, give you an opportunity for conferences, aside from the general meetings, with the sales executives of the other North American companies?

A. Yes, sir, they do.

Q. I think you made the remark, in speaking of your first reactions to the Reddy Kilowatt character in advertising,

—3,297—

that no one man has a corner on sales ideas? A. That is correct.

Q. You would likewise say that that would be true, that no electric utility company has any such corner? A. That is correct.

Q. Or any system of utility companies has any such corner? A. As I understand your question it is that neither any system nor any one utility has the corner on all the good ideas in sales promotion work?

Q. Yes. A. I would say that that is a very correct statement. 7820

Q. I assume you derive benefits from these general meetings which you attend, or you wouldn't attend them? A. That is right, I do.

Q. You spoke in respect to this most recent meeting of yours with certain other sales executives of the North American System, of a special extension case upon which you were working, and which was mentioned, although not identified, by a speaker at the general meeting? A. Yes.

Q. And later discussed particularly with you by another sales executive of the North American Company who had a similar problem? A. That is correct. 7821

—3,298—

Q. And as a result of that conference I understood you to testify that you revised the proposal which you had made in respect of your case, to conform with the studies which had been made by the other gentleman of the North American System, of whom you spoke? A. The first part of your statement is correct. I revised it, but not to conform to his data.

7822

Charles E. Michel—By Respondents—Cross

It conformed to my data after I thoroughly understood the characteristics of the load, which were most exceptional.

7823

Q. But his experience and studies were of aid to you in causing you to give further thought to the matter? A. Very definitely. I am quite sure that if I had not discussed that load with that executive and if he had not been entirely frank with me, that my company would never have been considered in the final location of that plant, and I am advised today that we are under very serious consideration, in fact there is only one other place that is receiving consideration at this time.

Q. How far had the other North American sales executive progressed with his similar case at the time you talked with him? A. He had already placed his proposal on the basis of his understanding of the peculiarities of their load, which I did not have, and it was in the hands of the prospective customer at that time, and he did not have the data with

—3,299—

7824

him, but sent it to me when he got back home, with all of the details. Then, after I made mine, I sent him the details of what I had done.

Q. And you had already made a proposal of your own, which you were able to withdraw and amend? A. Well, I had made a proposal on a total misconception of the requirements of the customer.

Q. If it hadn't been for this meeting, then, it would appear that both of you would have submitted proposals which might have been slightly to your disadvantage, isn't that true, or have left standing proposals which might have been to your disadvantage? A. Well, that is a hypothetical ques-

tion that I assume is correct. If I hadn't gotten the information from somebody else, that is true, and I don't think I would have gotten that information elsewhere, because I had put the matter in the files.

Q. It never had occurred to you to make inquiry of any sales executive of any other North American company as to whether they had had similar experiences, prior to your submission of your proposal in this case, until this accidental meeting? A. Well, I wouldn't call it an accidental meeting. Frank and myself were sitting down and discussing the most intimate details of our sales operations, in St. Louis and Milwaukee. I am thoroughly familiar with the Milwaukee situation, and we were going into the most

7826

—3,300—

intimate details of our operations, going into a lot of facts.

Q. But this particular matter was brought into the conversation through a remark by a speaker in the general meeting, isn't that true? A. Yes, sir, and after he had made it I tried to identify the thing in my own mind, and I don't know today that I have, but I believe that I have, and then I was discussing it with Frank Coffin.

7827

Q. Are you familiar with the rates charged by the Potomac Electric Power Company to its customers? A. Well, I wouldn't say familiar, I have them, I have them in my files, and they have been the source of a good deal of study by my rate men, but to say that I am familiar with them, no, that is not a correct statement.

Q. Are you familiar with the method of sales promotion, particularly in respect of greater utilization of electric equipment, employed by the Potomac Electric Power Company? A. Yes, sir; within limits, that is.

7828

Charles E. Michel—By Respondents—Cross

Q. Will you describe very briefly what they are? A. Any promotion of the electrical utilization equipment for the home through the Potomac Electric Power Company's territory, as I understand it, is handled through an organization here in Washington. The name of that organization is in my files, I don't have it in my mind. But that is the promotion, as I understand it, the way they handle it. And

—3,301—

7829 the Potomac Company itself does not do any direct merchandising to its customers, leaving the merchandising to the dealers and so forth.

Q. Whereas your Group maintains the 26 stores? A. Maintains 26 stores.

Q. For the sale of merchandise? A. Yes, sir.

Q. Are you familiar with the rate structure of the Cleveland Electric Illuminating Company? A. Not to any greater extent than I explained in connection with the Washington operations.

7830 Q. Could you state roughly how that rate structure differs from that of the Missouri group of companies? A. No, sir, I cannot, I cannot tell you. It is in the hands of my rate statisticians who are constantly giving it attention. I read it, as I read the rates of all of the utilities in which I am interested, but I do not attempt to carry those rates in my mind. I have got enough trouble trying to carry my own.

Q. Your answer would be the same both as to merchandising methods and as to rate structure in the group of North American companies centering in Milwaukee, or is your familiarity with that situation greater than it is with the two which I have mentioned? A. My familiarity with Mil-

Charles E. Michel—By Respondents—Cross

7831

waukee formerly was great, I was in very close touch with

—3,302—

it. Today I am not in close touch with it to the extent that I was formerly was, and I would say generally that an attempt on my part to go into the details of their operations, would be impossible; I couldn't do it.

Q. In respect of rate reductions, and also of merchandising, do you keep in touch with the activities of companies in Missouri, Illinois and Iowa, which are not in the North American Group? A. I watch them, I learn them from the newspapers, and I learn of them from the Edison Electric Rate Book, and things of that kind, and I am constantly watching them, yes, sir.

Q. They are on file, I presume, in respect of rates at least, with the regulatory commissions? A. Yes, I assume that they are, but I don't get them from that source. I get them from the rate book published by the Edison Electric Institute.

Q. And that rate book covers the whole national field, does it not? A. It covers the national field. Of course, it gives the general information, it doesn't give specific information. The application of a set of rates out of that rate book, unless you knew all the underlying principles, is a most difficult task.

Q. How far is it from St. Louis to Keokuk, roughly? A. About 220 miles.

—3,303—

Q. Do you make frequent visits to that office? A. I do not, but my men do.

7832

7833

7834

Charles E. Michel—By Respondents—Redirect

Q. How frequently do they make those visits? A. I have had one man up there for pretty nearly a month. I am getting tired of it right now, and I am going to get him back.

I have had three or four men up there on two or three occasions within the last sixty days, for one or two days.

I have had a couple of home economists up there.

All of these men have been doing training work with the group that operates up there, as well as dealer relationship work.

7835

I have had my merchandising manager up there for too long, I will say that, during the last sixty days.

Mr. Binford: Mr. Examiner, I have no further questions at this time, and I don't expect to have any further questions of this witness, but I would like to reserve the right to recall him for further cross-examination upon any particular point, if occasion seems to require it.

Redirect Examination by Mr. Browning:

7836

Q. Mr. Michel, in giving the distance from St. Louis to Keokuk, you were giving your present recollection? A. Just a round figure, out of my head.

Q. And you would yield to the atlas, would you? A.

—3,304—

Absolutely. I will say this to you, that I have driven it within the last two years, five times to my knowledge, from St. Louis to Keokuk in my own car, but I don't know exactly what the mileage is.

Q. In answering questions with regard to sales department personnel, you were not including the district managers

Charles E. Michel—By Respondents—Redirect

7837

or local representatives whom your department advises and trains, but who are not directly within your department, is that correct? A. That is right, that in the figure of 302 they are not included.

Q. Does the total number of stores which you mentioned include all merchandise show-rooms throughout the system?

A. Yes, sir.

Q. You were asked certain questions with regard to intercompany accounting practices on intercompany merchandise transactions, including whether orders were placed on a single contract. Do you know the facts with regard to that? A. I do not.

7838

Q. Regarding this incident which you have described in some detail on cross-examination, the potential customer and the discussion thereof between you and the Milwaukee sales manager, and the assistance in interchange of information between you, would you have given that information to any non-affiliated company? A. No, I would not, any more than they would give it to me.

—3,305—

Q. Would you have asked it of any non-affiliated company? A. I would have thought it was rather impertinent to do so.

7839

Q. You were asked as to your knowledge of the sales promotion work of the Potomac Electric Power Company. Do you attempt to carry every detail of every sales promotion policy of the other members of the North American Group in your mind for instant reference? A. I do not.

Q. Have you discussed the sales promotion policies of the other North American subsidiaries with their sales managers from time to time? A. I have.

7840

Charles E. Michel—By Respondents—Redirect

Q. In dealing with rates of other North American subsidiaries, do you attempt to carry all the figures and details in your mind? A. I do not.

Q. But you have seen their rates, and discussed them with the other sales managers, and the material is in your files? A. In special cases, yes, sir. I wouldn't say that that was the general policy, but that we do it constantly on different problems that come up.

Mr. Browning: That is all.

7841

—3,306—

Mr. Binford: No further cross-examination at this time, with the same reservation.

Mr. Browning: And as usual we object to the reservation.

The Examiner: Very well.

Mr. Browning: Is my understanding correct, that we now will take a recess until Wednesday morning, November 13, at 10 a.m.?

Mr. Binford: That is agreeable to me.

7842

The Examiner: Yes, we will recess now until next Wednesday, November 13, 1940, at 10 a.m.

Mr. Browning: I might add just this, Mr. Examiner, that we will expect at that time to put Mr. Stokes on the stand for cross-examination.

The Examiner: All right.

(Whereupon, at 12:30 o'clock, p.m., the hearing in the above-entitled matter was recessed until 10:00 o'clock, a.m., Wednesday, November 13, 1940.)

—3,307—

2615

BEFORE THE

7843

Securities and Exchange Commission

Docket No. 59-10

IN THE MATTER

of

THE NORTH AMERICAN COMPANY, *et al.*

7844

Hearing Room 622,
Securities and Exchange Commis-
sion Building,
Washington, D. C.

Wednesday, November 13, 1940.

a

Met, pursuant to adjournment, at 10:00 o'clock a. m.

7845

Before: W. W. SWIFT, *Trial Examiner.*

Appearances:

S. PEARCE BROWNING, JR., and CHARLES S. HAMILTON, JR.,
of Sullivan & Cromwell, 48 Wall Street, New York City,
Attorneys for the Respondents.

RALPH C. BINFORD, and HERMAN ODELL, Attorneys for the
Securities and Exchange Commission.

7846

Stanley Stokes—By Respondents—Direct

PROCEEDINGS

The Examiner: The hearing will be resumed.

Mr. Hamilton: I have just one or two questions for Mr. Stokes, if I may, before the cross examination.

The Examiner: All right.

Whereupon, STANLEY STOKES resumed the stand and testified further as follows:

7847

Direct Examination by Mr. Hamilton (Continued):

Q. Mr. Stokes, you have previously testified as to the town of DeSoto, Missouri, in illustrating the organizational set-up of the Union group, and you mentioned your local representative in DeSoto as a Mr. Ditch. I don't think you indicated how long that gentleman had been at DeSoto. A. Mr. Henry Ditch came with the Union Electric group in 1922, and has been located at DeSoto since that time with the exception of two relatively short intervals in which he was located at Festus, a nearby town. During those intervals, he was still employed by the Union Electric group on some construction work.

The general plan followed by the Union Electric group in taking over such properties as DeSoto was to attempt to utilize the local people insofar as possible, but in this particular case, the Monroe family who had been the owners of the property were unable to carry on the work satisfactorily

—3,309—

under our improved methods and different type of operations, and it was necessary to discontinue their service.

Stanley Stokes—By Respondents—Direct

7849

The previous operation had been somewhat haphazard and slip-shod and it was difficult to teach them the newer and better methods.

Q. Do specialists from the St. Louis offices of the Union Electric group supplement the work of the company's representatives in communities like DeSoto and Festus? A. They do. The Union Electric group has a number of specialized people who constantly keep in touch with the outlying divisions and particularly towns like DeSoto. For instance, our Mr. Carter Lewis, chief illumination engineer, has made seventeen visits to DeSoto and about eight to Festus during the past year.

7850

Also, our chief hydraulic engineer, Mr. Davis, has made a trip down there to assist them with their water works pumping problems, and our commercial cooking specialist, and the merchandise manager and the man in charge of all of our air conditioning work, Mr. Freund, have all made frequent visits to that community and have assisted the customers in every way possible.

About the first of October, a woman home lighting specialist was detailed to DeSoto and has been there ever since and will remain there until the demands of the various customers have been met.

7851

—3,310—

Q. And do power salesmen of the group likewise visit the town from time to time? A. Well, that is a regular routine matter. The power salesmen cover that district just as they do the other districts and contact the present power customers and prospective power customers to endeavor to develop additional business and to render service to that which they already have.

7852

Stanley Stokes—By Respondents—Direct

Q. Did the former Consumers Electric Light & Power Company, which you testified previously served the community of DeSoto, render any such specialized services to the community of DeSoto? A. No. It would have been impossible to have rendered such specialized services. They were simply a small-town family and had no opportunity to learn such things.

As a matter of fact, they didn't know how to go out to get the additional load and if they had gotten it, their equipment, at the time the plant was taken over, would have been inadequate to carry it and they required a firm source of power to be able to handle such matters.

Incidentally, the Union Electric group had the money and, recognizing the necessity for a firm source of supply to DeSoto built transmission lines down there and connected the town with their large system, thus assuring an unlimited supply of power as far as DeSoto was concerned.

With such a supply of power and the knowledge of how to get the business, the town has prospered and has increased

—3,311—

7854 its load materially.

The original management was confronted with a pretty serious problem. To summarize it, if they had gotten the load, they couldn't carry it and they didn't have the money to build the plant to carry the load.

Q. You are now speaking of the former management? A. Former Monroe people—former owners. So that the net result has been the rapid improvement and development in the service rendered and a greater service being rendered which was not dreamed of in those days by the previous owners.

Mr. Hamilton: That is all.

Stanley Stokes—By Respondents—Cross

7855

Cross Examination by Mr. Binford:

Q. Would you state your position with the Union Electric Company of Missouri? What is your position with the Union Electric Company of Missouri? A. Consulting electrical engineer is my title.

Q. What is your position with the other companies in the Union Electric Company of Missouri group as you have designated? A. The same position. Although I do not particularly utilize the title, my time is distributed on the work done for the other properties and I have the same functions to perform for the entire group that I have for the Union Electric Company of Missouri.

—3,312—

Q. Do you mean that your salary is allocated to these various subsidiaries? A. Yes.

Q. Do you know how it is allocated? A. Well, from time to time I give the accounting department an estimate of the amount of work. It is usually based on our budget which is to be carried on in the different groups and that sets up a distribution which is adjusted from time to time.

7857

Where there is a specific work—what we call a work order—in progress, such as the Venice Plant No. 2, then my time is charged direct to that work order, but the miscellaneous general overhead is distributed on the basis as outlined.

Q. I believe you stated on direct examination, but I would like you to restate now: When did you come to work for the Union Electric Company of Missouri? A. I came to work for the Union Electric group in 1912.

7858

Stanley Stokes—By Respondents—Cross

Q. What were you doing before that time? A. I was at Missouri University; graduated from there in a five-year course with the degree of electrical engineer. During the summer prior to my graduation, I did some summer work out west just to make a little money to go to school the next year.

Q. Did you work for any subsidiary of The North American Company before you entered the employ of the Union

—3,313—

7859. Electric of Missouri? A. No. That summer work was with the Telluride Power Company, just as a student engineer.

Q. I think you described at some length the engineering work done in the interests of the Union Electric group as a whole as you designated the Union Electric group. Do you know how those costs are allocated? A. You mean the costs of my salary or time?

Q. I mean the costs of the entire operation that would seem to be for the benefit of the companies as a whole. A. All distributions are done on a cost basis. That is, there are no profits added, if that is what you mean.

7860. The total expenditures in my department, when distributed on the various companies, will be the same total figure as though we had done all the work for one company. That is, it is done on a cost basis.

Take, for example, one of my men. He has a specific job to do and his time is distributed on that work where specific work orders have been approved. Prior to the approval of specific construction work is where a good deal of our work comes in because we do some of the preliminary engineering, and that is carried as a general expense item and distributed

Stanley Stokes—By Respondents—Cross

7861

on the work, if it is a large enough job, later carried as a suspense work order and then distributed later.

—3,314—

Or, if it is work that is studied but not carried out, that will be distributed probably in the most equitable manner. It may be in proportion to the construction budget of the various companies.

Q. What companies do you include within the Union Electric group that you speak of? A. Well, in our definition of the Union Electric group, I included the electric companies only in that particular definition. I can list them for you.

7862

Q. That is to be taken as applying to all your testimony? A. That is right. We referred to the Union Electric Company of Missouri and subsidiaries and in that connection we meant all of the properties including the Union Colliery Company and others, but when referring to the words "Union Electric group," we meant only the electric companies.

Q. So you didn't include the St. Louis County Gas Company? A. Not in the terminology of Union Electric group. When I referred to the gas company, I spoke of it by name—that is, to the St. Louis County Gas Company.

7863

Q. I gathered from your testimony that the Keokuk Plant supplements the steam generating plants in Missouri. A. Yes.

Q. In a way that permits the more economical operation of the other plants, is that true? A. The Keokuk hydro

—3,315—

7864

Stanley Stokes—By Respondents—Cross

plant is a generating plant for the group of companies just as the Osage hydro-electric plant is a generating plant and just as the steam plants are generating plants.

The whole taken together generate the power and it is all on a common transmission line and high voltage tie system, so that they are operated, each, for the best effect at the time. We don't distinguish between the Keokuk plant or the Osage plant or steam plant.

7865 They are operated as a system group of plants for the best over-all economy.

Q. The same thing would be true if the Keokuk plant were a thousand miles away rather than 200 or something like that? A. Well, you couldn't—that is a hypothetical question—well, you couldn't transmit the power a thousand miles so I wouldn't know hardly how to answer that question. The losses would be prohibitive if you could.

7866

Q. At what point are the losses prohibitive? A. Well, it is difficult to specify a ~~particular~~ point at which losses become prohibitive. The ordinary design of a good transmission line or power transmission is to design for ten per cent. losses or slightly less on the peak.

The losses on the Keokuk lines, with both lines in regular operation, run in the neighborhood of $5\frac{1}{2}$ per cent. About 10 per cent. if one circuit were out of order.

—3,316—

It is a normal transmission line design, corresponds to the design of our more recent lines to the Osage plant.

Q. You may have covered this in your direct testimony, I don't recall. When was the Keokuk property acquired by your group? A. As I recall, about 19—let's see. We had the

Stanley Stokes—By Respondents—Cross

7867

contract there in 1913, and I believe we acquired the ownership about 1926. I have that figure, but that is the way I recall it.

Q. Prior to that time, you operated without that reserve hydraulic power? A. Prior to which time?

Q. Prior to the time you acquired that particular property. A. No, we had a contract agreement with the Mississippi River Power Company. You see, that property could not function without the steam reserve plants into St. Louis and it was recognized in the beginning and the contract was provided between the Mississippi River Power Company and the Union Electric group to provide the necessary steam reserve so that the hydro plant at Keokuk could carry its rated load.

7868

I will give you certain figures. The firm contract demand of regular customers, whose load can not be dropped, is 115,000 kilowatts and the capacity of the hydro plant under low water or ice conditions is 70,000.

The remainder has to be made up by a steam plant somewhere and the most economical combination was to utilize

—3,317—

7869

those already available in St. Louis.

Coal was pretty high priced at Keokuk and freight rates were not favorable.

Q. Freight rates change at the Mississippi River, do they not? Freight rates change at the Mississippi River? A. Freight rates have changed, did you say?

Q. Aren't they based on the St. Louis area there? A. Well, I am not a specialist on freight rates, but you have group rates from Pittsburgh to St. Louis and from the east-

7870

Stanley Stokes—By Respondents—Cross

ern centers to St. Louis, but major group rates like that probably do not apply to Keokuk.

At least, I know that the cost of coal at Keokuk was one of the factors that made it attractive to use the steam reserve plant to St. Louis.

Q. What I was thinking of is this: Hasn't it proven more economical to transport coal by your own trucks across the Mississippi River than to have it shipped across direct or do you recall that? A. No, we do not haul it that way.

7871

We ship it and pay a twenty-five—formerly 25 cents a ton bridge arbitrary charge that now has become 30 cents a ton, but we do no coal trucking across the bridge, at least none of any consequence. It is shipped by railroad cars. The reason we ship any coal across is primarily because the generation on the Missouri side is tied up with the steam-

—3,318—

7872

heating load in the City of St. Louis as well as the fact that under some conceivable river conditions, it is possible that there might be some disturbance to submarine cables and we want to have adequate reserve in St. Louis.

We recognize that the cost of generating power in St. Louis is higher than the cost of generating it across the river by the bridge arbitrary charge.

Q. There is a bridge arbitrary? A. It is now, I believe, 30 cents. You see, the bulk of all of our generation is done on the Illinois side, the big plant being Cahokia.

Q. Is that plant on the Illinois side or is it rather in the middle, split? A. Cahokia is on the Illinois side of the river.

Stanley Stokes—By Respondents—Cross

7873

Q. Wholly on the Illinois side? A. You see, the river has boundaries set up there by an Act of Congress, known as harbor lines. The Cahokia Plant is located on the Illinois side of the river on one of the harbor lines.

Q. I believe you testified concerning some inter-company committees of The North American system and your attendance at such company meetings.

This proceeding was instituted, I believe, in March of this year. Prior to that time, how often did these committee meetings occur? A. We hold our committee meetings twice

7874

—3,319—

a year.

Q. Twice a year? A. Yes.

Q. Do you also attend any meetings of engineers other than the inter-company meetings? A. Yes, I am a member of the St. Louis Engineers Club and some of the national societies.

Q. How often do they meet? A. Well, it depends on which ones we refer to, but, ordinarily, there is generally a Spring and Fall meeting or at least one meeting a year of any of the committees of any consequence.

7875

The most frequent, I believe, is about twice a year. I don't attempt to keep up with all of those meetings, of course.

Q. Do you take periodicals dealing with engineering and keep up with the advancements in the field generally? A. We try to keep up to date with the art. There are periodicals that run by my desk, usually subscribed for by the company, but I see such as I am interested in. Of course, I would like to bring out the fact that by the time the engineering

7876

Stanley Stokes—By Respondents—Cross

information gets into these periodicals, as a general thing, the job has already been done some time hence and that is an historical statement of what took place.

For example, on these standard matters where we have

—3,320—

—sometimes those discussions have been going on for six years in various places and the information gets into the periodicals; it is relatively unsuitable for new design.

7877 The art changes rather rapidly. I don't mean to say there is anything wrong with the article, but I do point out that they usually are a statement of historical accomplishment which, to one who is actively engaged in the work, is past history, and what he is interested in is how to do the next job.

Q. Do you use pulverized coal in your steam generating operation? A. We do almost exclusively.

Q. Where did that idea originate as far as you know? A. The development of the work on pulverized fuel, as such, was done at Milwaukee by the company which is now the Milwaukee Electric Power Company.

7878

Q. That is where the idea originated? A. It is. We spent very large sums of money on that development work. We were interested in it, followed it very closely and found that it was suitable for our coal, which we had had considerable difficulty burning on stokers because of the high sulphur content, and we watched those developments at Milwaukee with much interest.

I made a trip up there to the Lakeside Station to see the thing in operation when it had not been going very long and we found that it would work on our coal. We actually

Stanley Stokes—By Respondents—Cross

7879

tried it, took the coal up there, and it is the thing that

—3,321—

permits us to get the capacity out of our furnaces today.

We have both systems in operation in St. Louis. We have both the storage system and the individual pulverizer. They both work very satisfactorily.

We have a certain personal preference for the individual pulverizer, perhaps because we did a little development work on that ourselves.

Nevertheless, we have under design and construction, a new plant at the present time and we are installing individual pulverizers in that plant. That is the major point with the Union Electric group, because we do have to use the local Illinois coals that are not too distant and they slag at relatively low temperatures and the pulverized firing is undoubtedly without any question the solution to the proper burning of that particular fuel and that represents—roughly speaking, 80 per cent. of the power generation is in the boiler room, 80 per cent. of the operating costs, so those things are really of some importance.

Q. Are you familiar with the methods used in reference to the fueling in the Cleveland Electric Illuminating Company? A. Yes, they have a very modern and very attractive plant out at Ashtabula. I have visited that plant out there. They have very successful operations.

Q. How do their operations compare with yours? A. Well, Cleveland's over-all B. t. u. economy at Ashtabula, is

—3,322—

slightly better than ours for two reasons: First, that they have a better grade of coal and it costs a little more and

7882

Stanley Stokes—By Respondents—Cross

they can afford to burn it a little more efficiently—spend the money to do it, I mean—and, second, they can get a better load factor on their plant on the average, because they are a steam generating system and do not have hydro power. We have to always design and operate our plants to get the minimum ~~annual~~ total cost of power, not merely the minimum annual operating expenses.

7883 We have got to watch our fixed charges. Where part of your power is produced from hydro power and where your fuel cost is relatively low, you can't afford economizers and other devices for obtaining the highest efficiency. 7

We are attempting to install what we think is the most economical plant for our district right now, and we are not going to the maximum steam pressures or temperatures because the cost of our fuel does not justify it.

7884 The added fixed charges more than outweigh the B. t. u. economy. So, in answer to your question, I think that Cleveland does a very handsome job in their generation out there. They have a plant at Ashtabula, Avon, and Lake Shore there, which are very creditable plants and, particularly, I have to admit that so far I haven't been able to obtain quite as low cost per kilowatt as they get.

We have severe foundation conditions to meet. We have

—3,323—

from thirty-six to fifty foot variation in head on the river and those plants up there are located on a very simple solid rock foundation with the lake level practically constant, so those factors all have to be taken into account in any such comparison.

Q. It seems to be, then, from your remarks, that each public utility located in a particular geographic area can not

Stanley Stokes—By Respondents—Cross

7885

benefit so very much from the experiences of others because of its own peculiar situation, is that true? A. I wouldn't generalize and reach any such conclusion as that. The type of plant at Ashtabula is such that if you were to go through the plant, being a non-technical man, I would say you would think it was the same type of plant as you were looking at in St. Louis.

The only difference is, there are certain refinements which we would put on immediately if the price of coal went up and which we have made provision for in certain cases, and, if I were engineering the Ashtabula station, I would do what they are doing, and if they were engineering the St. Louis station, they would do what we are doing.

7886

I am talking about the refinements which are gone into to get the minimum over-all cost including fixed charges, making such allowance as is proper for different prices of fuel. For example, in the St. Louis district, alone, if, by reason of some change in coal prices, the very low grade fuel there were to be suddenly decreased in price and if the

—3,324—

better grade of Illinois coal were to increase, we might have to change our present policy, redesign the plant a little bit and arrange to burn the very worst fuel if it gave the lowest annual over-all cost.

7887

Q. Of course, you wouldn't say that the problems of each locality are peculiar to themselves? A. The foundation conditions may vary in different localities, as I have indicated, but the general problem of manufacturing steam power is not particularly different.

7888

Stanley Stokes—By Respondents—Cross

For example, they can find out what things have worked well at Ashtabula and apply them at St. Louis and if we find something there that is particularly effective in St. Louis, they can apply them there.

7889

The only difference, after you once get your plant built, in building it you may have some foundation differences. That is a relatively small percentage of the total cost. Once you find it built, the only difference I know of that affects the power production is the temperature of the condensing waters and the price of fuel.

Q. Outside of The North American System, do you know what companies now use pulverized fuel? A. I know that the pulverized fuel equipment in regular manufacture is available to other systems if they want it. I am not particularly familiar with very many other systems in detail. I

—3,325—

just—I do know that there are others who use pulverized fuel but I am not particularly informed as to just what plants—

7890

Q. (Interposing) What engineering developments in your system have you adopted from other systems, non-North American systems? A. I can't specifically mention one right this minute. I have very little contact with these other systems and when you say "engineering developments from other systems"—could you illustrate, perhaps, what you mean a little better by mentioning some particular type?

Q. Any source other than within The North American system. A. Well, it is a little hard to say what you consider an engineering development, but each year the refinements and changes that are made in the art we adopt them.

For example, if improved metallurgy were to be developed by the manufacturer, next year he would incorporate it in a turbine and when we bought the turbine, we would get the benefit of that development, obviously; but to say that we have adopted an engineering development, as such, from some other company, I can't recall such a case.

Q. Yet, you do, I imagine, try to keep abreast of developments in the field as a whole rather than confining your knowledge to your own system? A. We, as I said before, do attempt to keep up with the times.

7892

—3,326—

Q. Prior to this particular trip of yours to Washington, that is to say, on your trip here for direct examination, when was the last time you were in Washington? A. I can't recall exactly what—I was up here, oh, it may have been five or six years ago.

Q. When was your latest trip to Cleveland? A. Oh, I get up to Cleveland, at least once every other year on the average.

7893

Q. And to Milwaukee? A. Milwaukee every three or four years. I have been up there since the Port Washington station has been in regular operation and visited and saw it. It didn't get into operation until 1932, so it must have been three or four years ago. I made a two-day inspection up there at that time and went over the plant very thoroughly.

Q. I don't believe you testified as to public relations with the Union Electric Company of Missouri or that group, did you? A. No, I did not. I am engaged strictly in the technical field. I will say, though, that I have been employed there for twenty-eight years, lived in the city, and I believe

7894

Stanley Stokes—By Respondents—Cross

that the general attitude of the public toward the Union Electric group is very favorable.

Q. Upon your direct examination, which consumed several days, you, of course, just to get it in the record, referred

—3,327—

to notes. You spoke from notes on your direct examination?

A. I did, and I also discussed it otherwise. I used notes where necessary.

Q. You described in great detail the operation—mechanical operation—of the plants in your system and of the transmission and distribution lines; is that operation peculiar to The North American group, or is that, possibly, common to most modern utility set-ups? A. It is not common to most modern utility set-ups. There are, of course, some companies who have both steam and hydro plants and each one has his problems and does his best to solve them.

We have worked out the methods that are in use there in St. Louis, by a number of years of experience, making little minor corrections as they show improvement.

Q. The man in charge of hydraulic operation, Mr. Davis, 7896 started with the Mississippi River Power Company in the beginning of their operation and was very successful in handling that plant and when we acquired that property, we made him the chief hydraulic engineer for the company as a whole and that does represent a good many years of experience in the particular type of work.

Q. The acquisition of the Mississippi River Power Company by the group was prior to your incumbency in any position with the Missouri Electric—Union Electric Company

—3,328—

of Missouri? A. I didn't hear the question.

Stanley Stokes—By Respondents—Cross

7897

The Examiner: Read the question.

(Whereupon, the pending question was read by the reporter.)

The Witness: It was not. I came with the Union Electric Company of Missouri in 1912. If I understand the question now, I said that the acquisition of the Keokuk property by the Union Electric Company group was prior to my incumbency with the company.*By Mr. Binford:*

7898

Q. The Mississippi River Power Company—

Mr. Binford: Read the question again.

(Whereupon, the question was read by the reporter.)

The Witness: I think I understand the question. The approximate date of the acquisition of the Mississippi River Power Company by the group was, as I recall it, about 1926, the original contracts having dated from about 1913.

7899

I came with the group in 1912, some fourteen years prior to the acquisition of the Mississippi River Power Company by Union Electric Company of Missouri.

By Mr. Binford:

Q. Are you familiar with the accounting matters of your companies? A. Only in a general way, such as is necessary for an engineer to know and carry on his work successfully.

7900

Stanley Stokes—By Respondents—Redirect

Q. Are you familiar with the Federal Trade Commission's investigation into holding companies in general, made some years ago? A. No, I am not familiar with that particular investigation. I read the newspapers and I knew there was a Federal Trade investigation, but my answer to that is No.

Q. Then, you wouldn't be qualified to speak as to a writing that occurred at the time of the acquisition of the Mississippi River Power Company? A. No, I would not. I 7901 know nothing about it. I am not qualified to discuss that phase of the business.

Mr. Binford: I have no further questions.

7902

The Witness: I would like to add that I do know from an engineering-standpoint that the development of a company like the Mississippi River Power Company, in a virgin field without background of many years of experience in a particular operation, is a very difficult thing to do and we would expect it to be more difficult than to build the Osage project by the Union Electric Company of Missouri that would be an established firm, but I would not consider myself qualified to answer your question properly.

Mr. Binford: I have no further questions, but I would like to reserve the right to recall this witness for further cross examination, if the examination seems to require it.

—3,330—

Redirect Examination by Mr. Hamilton:

Q. Just to clarify the record, Mr. Stokes, you were asked, I believe, where the use of pulverized fuel had originated and

• *Stanley Stokes—By Respondents—Redirect*

7903

you answered that it had originated in the company now named Milwaukee Electric Power Company. A. Wisconsin Electric Power Company, I should have said.

Q. That is what I wanted to make clear. A. The company was the Milwaukee Electric—

Q. (Interposing) I think the record is clear on that now. A. I can't recall the exact name. I know the company operated under the other name for years.

Mr. Hamilton: That is all, Mr. Examiner, of course with the usual objection on this reservation.

7904

The Examiner: Very well. I will reserve my ruling until the real issue is presented.

(Discussion off the record.)

The Examiner: We will recess for five minutes.

(Whereupon a short recess was taken.)

The Examiner: I understand, Mr. Hamilton, that Dr. McClellan will not be available until 1:30. In view of that situation we will recess until that hour.

(Whereupon, at 11:05 o'clock a. m. the hearing recessed until 1:30 o'clock p. m. the same day.)

7905

7906

William McClellan—By Respondents—Direct

AFTERNOON SESSION

(Whereupon, at 1:30 o'clock p. m. the hearing reconvened.)

The Examiner: The hearing will come to order.

Whereupon, WILLIAM McCLELLAN, a witness called on behalf of the Respondents, having been first duly sworn, was examined and testified as follows:

7907

Direct Examination by Mr. Browning:

Q. Dr. McClellan, will you give the reporter your name and address? A. William McClellan. My business address is Union Electric Company of Missouri, St. Louis, Missouri.

Q. You are president of that company? A. I am president of the Union Electric Company of Missouri and various companies in that general system.

7908

Q. Will you describe for us your own personal history and your experience in the utility field? A. Well, I was born on November 5, in Philadelphia, Pennsylvania, 1872, and I went to the public schools of Philadelphia for my preparatory school work, and a large part of that also, owing to the fact that I had been brought up always with tools and things of that sort, my father being an engineer as well, I came naturally into it. Also, this school I went to, having quite a manual training department, I found myself suddenly transmitted to Swarthmore College for Engineering,

—3,332—
ing, despite the fact that I had never been to college myself,

William McClellan—By Respondents—Direct

7909

as instructor of engineering. It was really for that purpose, which, at that time, as young as I was, I was well qualified to do. That was '90 or '91.

From there I went to Reading, Pennsylvania, primarily to do some testing on Neversink Mountain Electric Railroad—that is a mountain railroad over one of the mountains near Reading, Pa.

While there, they elected me again because of manual training and my mathematics—they elected me a teacher of mathematics and of manual training at the Reading High School and I stayed there for seven years, and at that time I decided that I had better go to college, so I entered the University of Pennsylvania, graduated in 1900 with a degree of Bachelor of Science and at the same time had a scholarship in mathematics, honorary scholarship in mathematics awarded to me. But, instead of that, I remained at the University as instructor of engineering physics from 1900 to 1905 and, while doing that, I spent my time working for a degree of Doctor of Philosophy, which I got in 1903, majoring, as we use the term at the University, in physics.

Then, during that time, especially with my summer vacations, I worked a great deal for the Philadelphia Rapid Transit Company, which was the top company, main company, of all the transit lines in Philadelphia.

7910

7911

—3,333—

The result of that was that when the summer vacation didn't finish some of the work, they asked me to stay and I did stay throughout the year, for two or three years, as engineer in charge of construction, building power houses and some pole lines, doing rebuilding power houses under load,

7912 *William McClellan—By Respondents—Direct*

and sub-stations, things of that sort—all the things that go—car-barns for the company—largely construction work, because that was my job.

In 1905 I decided I wanted to go to New York, so I obtained a job in New York with Westinghouse, Church, Kerr & Company, which, at that time, was one of the important engineering firms of the country, ranked at the very top of those engineering firms, my object being to go to New York and get a chance to get acquainted with organized engineering as distinct from personal engineering.

7913

I worked there with them on the new Pennsylvania terminal in New York City. I electrified the Erie Railroad—that was one of my principal jobs—from Rochester to Morse, New York; just the same kind of system as the New Haven. In fact, it was the first trunk line in the United States that had this modern electrification system on it.

7914

I also did some other work for—underground cable work and redesigning sub-stations—65,000 volt sub-stations, which was a pretty high voltage in those days—in fact, one of the highest; and, doing all that sort of thing, of course, I ran some of the cars, for a while, when they put that elec-

—3,334—

trification in; got their schedules in for the operation, and things of that sort, and had a great deal of contact with all the operating people in the Erie Railroad in that particular locality.

My people, always having been in business for themselves, I was obsessed with the idea that I had to be in business for myself, so, in spite of the fact that the result of all of this work that I had done for Westinghouse, Church, Kerr

William McClellan—By Respondents—Direct

7915

& Co., crowded as it was into a relatively short period, I was offered a vice presidency to stay.

As I say, I was obsessed with the idea of getting my shingle up, so I went into business, myself, with my good friend Campion, and we formed a firm of McClellan and Campion, which continued from 1907 to 1915.

Our work was construction work. The biggest job we did was a huge paper mill on the Delaware River, but we did a number of small things, and we made a lot of reports on certain things, possible water powers and things of that sort. Details escape me just at the moment.

7916

And, then, of course, along came the panic of 1911, and we had our troubles. About that time I was offered the job as chief of the division of light, heat and power of the up-state—what we call the Second District Public Utilities Commission, which had to do with all the utilities in the State except those in New York City, itself.

—3,335—

Q. This is New York State you are talking about? A. New York State I am talking about. And the Second District Commission had all of the cities in the State except New York City, at that time, and I was the chief of division of light, heat and power.

7917

I was afterwards made chief engineer, and I was with them about two years and a half. I did make the proviso—and that is the reason I told you that my engineering firm went on—that I wouldn't have to interrupt that although, as a matter of fact, I didn't get to my private office very much.

7918

William McClellan—By Respondents—Direct

I had to devote all my time to commission work, although Mr. Campion, my partner, did do some work when the office was open.

My work with the commission, of course—I think most people will understand that all those companies, large and small—of course, we had Buffalo, Rochester and Syracuse for the large companies, and we had the smallest possible villages that we worked with—and gas, electricity.

7919 My work there was on valuations on rate cases, on finance cases, on regulation of practices, on complaints and everything of that sort, and, of course, it gave me a very intimate contact with all of the companies of that state.

A large part of my time I was on the road working in their offices and, of course, we had general regulations also to work on.

—3,336—

In the gas business, we got through some regulation for the standards of gas and things of that sort.

7920

Well, at the end of that time, which was about 1913—I think the middle of 1913 just as close as I can remember it—I resigned from the Commission and went back to my private business and at the same time was made assistant to the president of the Buffalo General Electric Company, which was the company that had to do with the local distribution in the City of Buffalo, New York—of course, there were a lot of Niagara companies up there, having to do with larger power—but this was the company which served the City of Buffalo, itself, for its general lighting and power purposes of the citizens of Buffalo, and I assisted the president, participated in financing and advised in regard to

William McClellan—By Respondents—Direct

7921

rates and a lot of things that came up as assistant to the president—anything that he had to do, if he asked me about it, I would help him with it. It was rather valuable experience in actually meeting operating problems.

It was almost the first—my first experience in 1913—in actually meeting operating problems as distinct from construction problems and regulatory problems that I had had with the Commission.

There is a vast difference, because, when you solve an operating problem, it often means you have got to decide to

7922

—3,337—

spend a lot of money on something, whereas, when you just—say, consulting engineer, for example—when you are only giving advice as to how a problem should be solved, you walk off and you don't have much responsibility for how the money is to be spent, but when you have a decision to make, that you have got to spend a quarter of a million dollars, if you make a decision one way, it broadens you considerably, and that was my first experience there.

So, I went back to the firm. We took in Mr. Paine as a partner, which is unimportant. He was a very prominent man at the time—he wasn't with us very long before he died. But we went back to a great deal of report work on valuations and rate cases and extensions, everything that has to do with the power—electric power—business, and during those days, I suppose, well, I traveled all over the country.

7923

Of course, I was with the New York Commission, I was with the New Jersey Commission, Utah Commission, Colorado Commission, North Carolina Commission, Washington Commission. I think I was before the California Commission.

7924

William McClellan—By Respondents—Direct

I was working for some of the larger companies of the country in all of these special tasks as kind of special counsel, worked with all these companies all over the country and before these different commissions.

During that time, when I was still in private business, the New York Commission, which had changed—the personnel had changed then—that is, the men I had worked

—3,338—

with had gone but other men were there—the Commissioners.

7925 They came to me and asked me to undertake for them the organization and progression of an investigation of the New York Telephone Company. So I did that as a private engineer retained by the Commission and organized a force.

I should say altogether we must have had 150 men finally working for me, accountants, engineers and we went through the New York Telephone Company from soup to nuts.

The result of it all was there was a reduction of rates by the telephone company.

7926

I, also, during this time, was employed some time by the courts of New Jersey; the Commission of New Jersey, I think, asked me.

I always liked, personally, to be working for them all to keep up various points of view with regard to this industry, so I was glad to do that.

Then, in 1916, in the midst of my work, Provost Smith of the University of Pennsylvania induced me to take the job of Dean of the Wharton School of Finance and Commerce of the University of Pennsylvania in Philadelphia.

That happened about 1917 or '16. I can't think just when it was. I was there about three years, and when I

went over there, again, I was supposed—I did keep my office open, but I didn't see much of it because, shortly after that, of course, the war came on and, while I was Dean of

—3,339—

the Wharton School, I did some war organization work in Washington and organized the Intercollegiate Intelligence Bureau of which we had about two hundred colleges gathered together as members, their job being—our job being to furnish the United States Government departments with any kind of specialists they might want. They had all their system for getting general help, but they finally had to draft, you know.

7928

But, if they wanted a man who had a lot of experience in some peculiar gas and they didn't know where to find him, we would find that fellow. If they wanted a man to spend a lot of his time on some peculiar mineral and didn't know where he was, we would find that fellow.

7929

If they wanted a man that did some particular kind of mining work, we would find him and we did that sort of work for the Government, which was afterwards taken over by the State Department and they operated it, put in a division that operated it instead of having it done by outsiders.

Well, then, about 1919—not very far from the time of the Armistice, I resigned as Dean of the Wharton School and at that time became vice president of the Cleveland Electric Illuminating Company, which is the company in Cleveland that serves the whole City of Cleveland and other portions nearby with electric light and power service.

7930

William McClellan—By Respondents—Direct

I was very closely associated with Mr. Lindsay, the presi-

—3,340—

dent of the company and who was not very well at times, so the result of it was I got, perhaps, more than the normal share of operating responsibilities, although, of course, he was well enough to be seen by me ~~very~~ frequently—daily, in fact—but I had a chance to, perhaps, do, as I say, more than the normal amount of operating work that would come to a vice president under a president.

7931

Before that, however, I had been with the Cleveland company, I think, maybe two or three years, just as a private engineer, and I did some work on valuations and did some work in a rate case with the Ohio Commission and did also some work—no, that was later, after I was vice president—with the City Council, and went pretty thoroughly into depreciation of poles and other parts of the property, we having made some very elaborate experiments there to get the truth of some of those things, and then, I, of course, with Mr. Lindsay, during—we had problems of financing that we came to New York City on, we had other large problems, and rate adjustments with the City Council there—both the steam heating and electric rates—and I was there with him until 1921.

7932

I resigned because I didn't want to leave my home. I had been going out to Cleveland every week and had not been living there, coming home week-ends, and I didn't want to move my home to Cleveland, so rather than do that, I resigned, and went back then soon after that, formed the firm of McClellan and Junkersfeld in 1922.

—3,341—

William McClellan--By Respondents--Direct

7933

Mr. Junkersfeld was a man who had had a good deal of experience in engineering work with the Commonwealth Edison in Chicago and later with Stone & Webster, and he was my partner in this engineering firm, designed, principally, to do construction work, and we did a very large amount of large construction work.

We built the Cahokia plant in St. Louis; we built the plant for the Western Power Company, later part of the P. G. & E. in San Francisco; we built the plant for the Government in Saskatchewan; we built a lot of other plants, cement plants in the Hudson River, power plants for one or two of the paper companies in Canada.

7934

I could go on with that sort of thing. We also made a very large number of reports—reports on all the properties of the Cities Service. We examined every one of their properties. That was made for one of the banking firms of New York. We made a very thorough examination of all the North American Light & Power Company properties leading up to what they were worth.

7935

Of course, at that time, that report was made, not for The North American Company here, but for the Studebaker interests and others which owned it at the time. That was before The North American Company was interested at all in the North American Light & Power Company properties.

—3,342—

A great deal of work of that sort, of construction work, regulation and things like that. Mr. Junkersfeld died in 1929—oh, it was during that time when McClellan and Junkersfeld was still going on that I was again recalled by the Commission of New York State.

7936

William McClellan—By Respondents—Direct

That was some years after I left it, to take their side of the case against the New York Edison Company in New York City, and I agreed to do it and spent about a year on that kind of work while I was, as I say, a part of the McClellan and Junkersfeld, and we again—that resulted in a rate reduction.

Q. During that period, did you act as consulting engineer for any other utility companies? A. Oh, yes. All the time I was working, principally with—a great deal of our work was with utility companies and I did—but this interlude of the Commission—for the Commission, of course, naturally, there was less of that kind of work I did.

I did most of my work with various companies, but there was enough of the other to keep me in touch with the Commission practice.

Q. Could you name some of the companies for which you did work during that period? A. Well, it is hard for me to distinguish between just that period and the period of Stone & Webster. The Long Island Lighting Company, the New York Edison Company, itself—in spite of the fact that I

7938

—3,343—

worked for the Commission, against them, I worked for the New York Edison Company, itself—and I think, at that time, we also had some work for the Public Service Company of New Jersey.

Those things escape my memory, but, of course, I referred to the North American Light & Power Company investigation. I just don't remember just now. Of course, during that time, we did a great deal more construction work than we did examination work.

William McClellan—By Respondents—Direct

7939

Well, as I say, Mr. Junkersfeld died and I didn't want to marry another partner, and so we sold out to Stone & Webster, and, as a part of that arrangement, I went over to Stone & Webster as vice president of the Stone & Webster Engineering Corporation.

We did have—which was a subsidiary of Stone & Webster Engineering Corporation—we did have a company in Canada, which I followed a great deal, known as William McClellan & Company, Limited, with offices in Montreal.

As a matter of fact, that was kept up until later on when I came down to Washington as president. With the Stone & Webster Engineering Corporation, I just did the same sort of construction work, design work, consulting work, things we had done before.

A good deal of my time was then spent with the North American Light & Power Company system. I went out there nearly every week consulting with Lou Fisher, the vice presi-

—3,344—

dent in charge of construction and operation, on a great many problems in that company, and had a great deal to do with the building of the elevated and tunnel line, Illinois Terminal system in St. Louis and also with a big terminal building there and things of that sort.

7941

Well, I kept with Stone & Webster until April, 1933, and Mr. Dame and Mr. Gruhl, who were officers of The North American Company, then asked me if I would come to Washington then as president of the Potomac Electric Power Company, so that ended my—I agreed to do it—that ended my career with Stone & Webster and I was with the Potomac Electric Power Company until I went to St. Louis as presi-

7942

William McClellan—By Respondents—Direct

dent of the company—until I went to St. Louis in May of 1939.

Q. Had you had any work on matters of Potomac Electric Power Company while you were with Stone & Webster?

A. Oh, yes. I had had a great deal. In fact, in addition to some very general problems of not great magnitude in connection with some of our steam work, there were two very important problems.

7943

In the first place, I was called in there one day by Mr. Gruhl and Mr. Dame and asked if I thought a block rate system could be introduced in Washington. The existing organization didn't think it could and they had had, at that time, a flat rate system, so I was asked if I would go down to Washington, which I did, to introduce with the Public Utili-

—3,345—

ties Commission, the block rate system, which is what we have at present, although not the same figure, the same system.

7944

So I came down here and spent probably six months working at this thing and finally went before the Commission with the evidence and found the Commission was quite willing to put in this system of rates—found the Public Utilities Commission was quite willing to put in this block system of rates as distinct from a single flat rate when it was properly presented to them, as I and some others did.

Then, of course—this was before I was president—I also helped with the details afterwards with the company.

The other major problem was the very rather complicated problem of this high line transmission line between Buffalo—

William McClellan—By Respondents—Direct

Q. (Interposing) Between what? A. High line, we call it—transmission line between Baltimore—I said Buffalo—Baltimore and Washington.

The Pennsylvania Water Power Company up here on the Susquehanna River had some extra power left over for various reasons that they couldn't dispose of.

As a matter of fact, it was rather due to the Pennsylvania Railroad changing its mind about certain electrification of its freight lines.

The result was this left this power on the hands of the company and they came to the Washington Company and said, "We would like to build this transmission line down

—3,346—

here to Washington; and we think we can show it will not only be profitable, make you some money, both by lifting off some of your peak, and by giving you an economy flow of power between the two companies."

Well, it met a strange and rather cool reception in the local offices. They just couldn't see it because, as a matter of fact, it wasn't very profitable, I will have to admit that myself. But The North American Company in New York looked at it, thought that it ought to be considered.

They couldn't make, at that time, very much headway down here. These fellows were all right, they were loyal, but they just couldn't see it, and so they asked me if I wouldn't come down—first asked me, "Do you think this contract ought to be made?"

Well, I studied it for two or three days. I said, "A contract ought to be made." They asked me, "Will you go down there and see if you can help the local organization

7948

William McClellan—By Respondents—Direct

get a contract?" So, I said, "Yes," and I did come down here and spent a great deal of time.

I think that was again, perhaps, some four or five months before we got the contract signed and we argued over it, worked over it with the engineers of the Baltimore Company, soon discovered that we could not find exact profit in it—I mean, positively sure profit in it—so I finally induced them to make it what I called "a no-loss contract," fixed up

—3,347—

7949

a contract so that the Potomac Electric Power Company couldn't possibly lose, the accounts would be kept in such a way that if the contract showed any loss whatever, they would pay us that loss in dollars and cents for the period of, I think, fifteen years, although I can't speak for the book on that.

As a matter of fact, it has since worked out of tremendous advantage for the company and has been profitable, and the Baltimore Company will never have to pay us any money so far as I can see, but it was a good way to make the contract under the circumstances.

7950

Some time after that, I was asked if I would come down as president and I agreed to it and I came down, probably, in April, 1933, as president of the Potomac Electric Power Company, and, as I say, stayed there several years and then, after that, went out to Missouri as president of the Missouri Company, which includes, so far as I can tell, most of my professional career.

Q. Are you a director of all of the companies in the Union Electric group? A. Oh, yes.

Q. Are you a director of any other corporations—

William McClellan—By Respondents—Direct

Mr. Binford: (Interposing) Object unless the Union Electric group is identified in terms of this witness. Various witnesses have spoken of the Union Electric group in different terms and I would like to have this witness clarify just what he means by the Union Electric group.

—3,348—

By Mr. Browning:

Q. Let me define my question then. Are you a director of Union Electric Company of Missouri and its subsidiaries?

A. Yes.

Q. You are a director and president of St. Louis County Gas Company? A. I am.

Q. Now, are you a director of any other corporations?

A. Well, I am a director in Washington, here, of some of my old companies, the Potomac Electric Power Company, Washington Railway & Electric Company, Capital Transit Company, and I am also a director of the—business organizations I am talking of now—Riggs National Bank.

Q. Were you a member of the President's Commission on Muscle Shoals in 1925? A. Yes. President Coolidge appointed me on the Muscle Shoals Commission in 1925, one of five members on the Commission.

Q. Have you been a trustee of the University of Pennsylvania? A. Yes. I—

Mr. Binford: (Interposing) Objected to as immaterial and irrelevant:

The Examiner: Objection overruled.

—3,349—

7954

William McClellan—By Respondents—Direct

Mr. Binford: Exception.

The Witness: Yes, I have been a trustee of the University of Pennsylvania.

By Mr. Browning:

Q. During what period? A. Well, from about 1929 to 1939, and various civic positions and things of that nature.

Q. I would like you to enumerate some of them.

Mr. Binford: Same objection.

7955

The Witness: I was president of the National Symphony Orchestra—

The Examiner: (Interposing) I am making the same ruling.

Mr. Binford: Same exception.

The Witness: President of the National Symphony Orchestra; director of the community chest and manager of the campaign one year; director of the Board of Trade.

By Mr. Browning:

7956

Q. In Washington? A. In Washington that is. In St. Louis my only position of that sort I was willing to take was director of the St. Louis Symphony Orchestra.

Q. Were you on the committee to revise the Government of the District of Columbia? A. Yes, I was appointed by—

Mr. Binford: Objected to as irrelevant and immaterial.

—3,350—

The Examiner: I will overrule that objection.

Mr. Binford: Exception.

William McClellan—By Respondents—Direct

7957

By Mr. Browning:

Q. Have you been a member or officer of any engineering associations? A. Yes, I have been a director and vice president and president of the American Institute of Electrical Engineers. That was about 1922, I was president of that national organization.

Q. Are you a member of the American Society of Mechanical Engineers? A. I am a member of that. I was also president of the American Engineering Council here in Washington for two years. In fact, I got out of it just a year ago. I have also been a director of that and an associated group for a great many years.

Q. Have you written any articles which have appeared in technical magazines or papers before technical societies? A. Yes, I have written papers and general articles on technical subjects, participated in discussions and, generally speaking, in connection with these national—particularly, these national societies of engineering.

Q. Have you appeared as an expert witness before any public service commissions? A. Oh, yes, I testified, as I said in my testimony, before the Colorado, California, Utah, New Jersey, New York, Pennsylvania, various commissions over

7958

various parts of the country.

Q. I believe you testified that you were a vice president of the Cleveland Electric Illuminating Company from 1919 to 1921 and that prior to 1919 you had done various consulting work for the Cleveland Company. That is correct, is it not? A. That is correct. I went out there—I think it was

—3,351—

7959

7960

William McClellan—By Respondents—Direct

originally suggested by Mr. Harrison Williams that I go out there and see Mr. Lindsay—

It was about the time I came back from my work with the Commission—and Mr. Lindsay and I got to be very good friends. He was president of the company, and he had me come out there and do a great deal of consulting work and things of that sort from time to time in connection with the Cleveland Company before I was vice president.

Q. Did you do any work for the Cleveland Company after
 7961 you ceased to be a vice president? A. Yes. After I ceased to be vice president of the company, McClellan and Junkersfeld did a great deal of advisory work on the 70th Street Plant in the rebuilding of it and also on the Avon Power Plant.

In fact, we were consulting engineers on that. Those particular things I remember. I think we did some other things, but those two larger jobs I remember very well.

Q. Have you generally followed the development of the Cleveland company since? A. Yes, I have followed it since.

—3,352—

7962 I get comparative reports as president of Washington and president of St. Louis. I see these reports come in. I keep a running knowledge but not a detailed knowledge of what we are doing.

Q. Did you ever have any contact with the Wisconsin-Michigan group of subsidiaries in The North American Company? A. Of course, I had some general contacts with them and I was doing all this work as McClellan and Junkersfeld, because Missouri had pioneered in powdered fuel—

Q. (Interposing) Because what? A. Because Wisconsin companies had pioneered in powdered fuel and we were get-

William McClellan—By Respondents—Direct

7963

ting the benefit of their pioneer work. So I used to go up and had rather intimate relations with John Anderson and others of the Milwaukee Company in connection with that.

Later on, they decided they wanted a very elaborate traffic survey made of the City of Milwaukee, and they had McClellan and Junkersfeld do it and we went up to Milwaukee and made a very elaborate traffic survey of the trolley lines and buses and parking conditions.

As a result of that, I had very intimate contact with Mr. Way and other officers of the Milwaukee Company. I got acquainted with conditions in the City. I appeared before the council once or twice for some speeches in connection with the report and I knew a great many people there, but so far as I remember, that is about the only business rela-

7964
—3,353—
tionship I had with the Milwaukee company.

Q. And you have since followed the development of the business of that group of subsidiaries through their statistical reports? A. Through their statistical reports and through meeting various officers, Mr. Van Derzee, Mr. Way and others at various times, talking things over with them.

Q. Now, you testified that after some consulting engineering work for Potomac Electric Power Company, you became president of that company in 1933? A. That is right.

Q. And that you took that office at the request of Messrs. Dame and Gruhl? A. Yes.

Q. Who were they? A. Messrs.—that is the way the request came to me, through them, because they were either president and vice president or chairman and president. I can't think which. But the two highest officers of The North American Company at the time.

7965

7966

William McClellan—By Respondents—Direct

At one time, Mr. Dame was president and Mr. Gruhl was vice president. Later on, I think, Mr. Dame was chairman of the board and Mr. Gruhl was president. That was just a change of titles.

The essential relationship was the same and they asked me to come down here and they really weren't satisfied with

—3,354—

the way the organization was set up down here and just how it was functioning.

7967

Q. What? A. How the organization was set up in Washington and how it was functioning. They weren't fully satisfied with it and they asked me if I would be willing to come down and take hold of the organization in kind of—well, they thought I knew what it ought to be and they asked me to come down and do it, so I did and made some very, very extensive changes in the organization without, at the same time, introducing any new people at the top.

7968

In other words, I changed the organization around a great deal and introduced a lot of new people down below to strengthen it and left what I thought, when I had to go to St. Louis—left what I thought was a pretty good organization.

Q. They told you that they expected you to deliver the goods when you came down here? A. Oh, yes. That is—just about, as I say, they expected me to put in a modern efficient utility organization in this company.

It had grown up, you see, under Messrs. Sinclair and others—it had grown up without taking knowledge of the advances of everything in the arts of organization. These men had been with these companies almost from the very

beginning and they just simply hadn't gotten streamlined

—3,355—

and modernized.

Q. Now, had you expected to stay in Washington? A. Oh, yes. That was the only reason I took the job. I thought I was going to stay here the rest of my life and when I got it organized, I thought I was going to be able to sit here and hit the high spots and enjoy life.

Q. How did you first receive any word that North American wanted you to go to St. Louis? 7970

Mr. Binford: Objected to as not relevant nor material to the issues in this case.

Mr. Browning: Mr. Examiner, I submit that it is entirely relevant. In the first place, we are tracing the development of this witness' experience within The North American system. In the second place, it has a direct bearing on North American's relations with its subsidiaries.

The Examiner: I can see where it might possibly have relevancy and I will overrule the objection.

Mr. Binford: I will withdraw the objection. 7971

The Witness: I was called over, I think it was one Saturday night. I had noticed in the papers that trouble had broken out in St. Louis and that was all the information I had.

The next Saturday night following my noticing this in the papers, I was called by Mr. Fogarty, who was at that time president of The North American Company in New York, to meet him at the Union League Club.

—3,356—

7972

Colloquy

I didn't know what it was for. I really didn't even suspect what it was for.

When I got over there, he said this trouble had broken in St. Louis, that Messrs. Egan and Boehm and—

Mr. Binford (interposing): Mr. Examiner, I would like to have this expression of this trouble clarified.

The Witness: Well, the charges had been in the paper that they had been collecting a slush fund not having it appear on the books and had been making political contributions which did not appear on the books. That is the substance of the trouble.

Mr. Binford: That didn't appear plain in the record.

The Witness: It didn't. I agree with you, sir.

He told me that, of course, at that time, he said, "We don't know anything about these charges; we have known nothing about it; but, in any case, for the benefit of the company, it looks as if Messrs. Egan and Boehm and Laun will retire from their positions and we would like you to go out there as president of the company and allow you to choose other help that you may need in connection with it."

Well, it was a startling thing to me, at my age. I hadn't expected to be shifted around like that. I had no desire for any further "goats' feathers", as Ellis Parker Butler calls them, otherwise known as "honors", but it seemed, from Mr. Fogarty's argument, to me that I was in a peculiar position to do it because

William McClellan—By Respondents—Direct

of my standing and experience, and so forth. Perhaps he was unduly flattering.

I didn't have to go, but after all friends of a good many years seemed to be in trouble and needed help, and so I finally, the next night—the following Sunday night—I went home and thought about it and talked it over with my family and I told them I would go out as president of the company.

At that time I took Mr. Woodbridge of New York with me as vice president, and Mr. Edward Gushee from Detroit as executive vice president. They came out with me at the same time.

Q. You had it understood that you were taking this St. Louis job as an emergency job of temporary tenure, is that correct? A. That was up in the air somewhat. I was taking the—of course I had to be elected president. You couldn't be elected to anything else, but it was announced that I was acting president and there was a general understanding that the thing could be cleared up in a short time and that I might come back and eventually—I wasn't permanently stationed at St. Louis, but as things developed, I am there for good—well, not for good, but I am permanent president of the company and no idea of changing.

Q. Since that time, have you been in charge of the management of the St. Louis group? A. Since that time I have been head of the management of the St. Louis Union Com-

—3,358—

pany of Missouri and its subsidiaries as well as the subsidiary of The North American Company, the St. Louis County Gas Company that we operate in St. Louis.

(Discussion off the record.)

7978 *William McClellan—By Respondents—Direct**By Mr. Browning:*

Q. I believe you testified about your work on the North American Light & Power Company properties. A. Yes, I got started with the general report on the value of the company before they took it over and it was on the basis of our report that they took the company over and then I stayed with the company, itself, for consulting work of various kinds.

Q. As a result of this experience you have been working with North American properties for over twenty years and the course of your work has taken you over the entire system, is that correct?

Mr. Binford: I object to the question "as a result of his experience" he had been working, so and so. The question should be, "Has he been working such and such a length of time" and possibly—

Mr. Browning (Interposing): I will withdraw the question.

By Mr. Browning:

7980 Q. Does the management of a public utility involve diverse problems, Doctor? A. Oh, yes. Obviously it involves the most diverse problems, but my picture of the management of public utility problems boils down to three major problems.

—3,359—

I consider the duty of the management, if it is going to be a successful utility, to preserve harmony or balance, if you say, among those three major problems and that is, first of all, the consumers, secondly, your organization, your personnel, your great thousands of men who have got to give the service, and then, third, of course, you have got the people

who supply the money. The people who supply the labor, the people who supply the money and the people who get results.

The great problem of utility management is to preserve some kind of management between those three forces that have to be satisfied.

The consumer, of course, wants the lowest rates and the greatest amount of service so that stands.

The personnel, the labor, they want the biggest wages they can get, the shortest hours; they are not unreasonable, but that is what they want. The biggest wages don't go with the lowest rates, necessarily, because, if you put the wage up too high, you can't get the rates down.

The man who is giving you the money, of course, that is the very peculiar thing about our industry which makes it different from most other businesses of the country, is that we are growing so fast. The result is that we are always needing money.

Every year we have got to invest a huge sum of money in
—3,360—
the company.

We have to put this money in the company. Therefore, we are constantly going to the people for money. They want adequate return on their money. So these three groups of people don't all want the same thing.

They want things that may be a little bit antagonistic. The great big problem of management is somehow or other to keep the stockholders satisfied, to keep the rate-payer satisfied, and keep the great organization that works for them satisfied. They are not always wanting things that jibe together and, in addition to that, as I say, we have this great sum of money to be obtained every year.

7984

William McClellan—By Respondents—Direct

Now, there are problems, coming up under keeping the consumer satisfied that are very numerous. The first one, of course, is that the rate shall be satisfactory.

My own experience, no matter what else you do for a consumer, if he thinks you are charging him too much money, no matter how nice you are to him, it doesn't do you any good, so, therefore, you have got to have your rates right, first of all.

7985

After you get your rates right, there are a whole lot of other things then. He wants service. He wants to think that you are interested in his problem, and we have an interest in that, too.

His lamps, everything he has got, must be working right

—3,361—

and we are interested in that because, if they are not working right, if they are out for example, we don't get any kilowatt hours and it means a loss of money.

7986

So we have a mutual interest in that sort of thing, so everybody in the company is trained, as far as it is possible in the organization, to make the customer feel that we are just not throwing the kilowatt hours at him, but we are interested in the way he gets it and how he gets it and the results that come from it.

We have got to train our organization to do it. When you come to the men, of course, everyone is familiar with the problems you have there. They want shorter hours. They want to be paid for holidays. They want time and a half for overtime. They want employment conditions fixed so that the older men stay on and the last man hired is the first man fired and all that sort of thing.

All those conditions introduce a tremendous lot of problems that we are just constantly at work with and if they are not handled properly, the men aren't happy and if they are not happy, we don't get full loyal service out of them.

Well, we come to the kind of problems you have with the stockholders in keeping you supplied with money, even the bondholders, that comes through bankers and insurance companies, and we have to spend a lot of time getting the mortgages right for them.

—3,362—

7988

The average stockholder, no matter how good-natured he is, never thinks the dividends are as high as they might be. We have got to tell them they can't be any higher because we have got to do certain things.

There is such a thing as regulation in the world and we have got to teach him about that, because that sometimes interferes with it.

Those, as I say, are the major problems confronting the man in the utility business.

Q. What do you consider, Doctor, to be some of the principal differences between a public utility and other businesses? A. Well, the first big difference is that owing to the way things have been organized in the world, through regulation, with Government approval and everything of that sort, the average consumer in the community must deal with us.

7989

It isn't like buying gasoline; it isn't like going to a department store for shirts or anything else. The only place in St. Louis that a man can get kilowatt hours is either from us, the Union Electric Company of Missouri, or from

7990

William McClellan—By Respondents—Direct

our small competitor, the Laclede Company. It is, of course, a small competitor, limited in its capacity.

That is the first thing. That means that, of course, customers relations amount to an awful lot to us. They are no more important to us in one way than they are with anyone else because, obviously, a department store that doesn't have good public relations, the people aren't going

—3,363—

7991

to come and buy from it. That is perfectly true, but nevertheless, they will have at least a visible loss of business to correct them.

In other words, if they are sassy and not nice, why, gradually, they will lose the business.

We don't notice the loss in business because everybody has to come and take it. We might not get as much business, but it isn't quite so visible as it is to someone else that is losing.

As a consequence, that makes a difference.

7992

The second thing is that the business—of course, you might—another thing we have is the reverse of that in a way. We have absolutely no way of refusing the customer. The customer comes to us; we must give him service; it is the law. It is the very nature of the—we are a public servant, from the old common law.

Then, the second thing is, we have no choice about the size of our business, provided the public chooses to give it. Now, a gasoline company, today, working on 10,000 barrels a week, their board of directors can solemnly meet. "Shall we go to 15,000 a week? No, we shall not go to 15,000 a week. We prefer, for our private benefit, to stay at 10,000." We have no such choice as that.

William McClellan—By Respondents—Direct

7993

This business comes to us and whether we like it or not, whether it is profitable or not, we must take it; we must provide the money to do it; we must provide the organization to give it and that is different from the average business

—3,364—

ness, which has more or less control of its growth and size.

If the market is bad and they don't want to go out and get money, they will say, "Well, we won't grow this year." They have a choice. We have no choice about it at all, which introduces another tremendous group of problems.

7994

Right now we are projecting curves. We don't know whether to enlarge our power house or not.

If certain things happen, which look as if they are going to happen, we ought to do it. If we do do it and they don't happen, we will have a machine there that we can't use.

Now, we have no way of telling. It looks as if it would be needed, but if we put in \$8,000,000.00, in that generator, which is about what it would cost, and events should turn where it is not needed, then we would have eight million stuck.

7995

On the other hand, if along came something in Missouri for war purposes that we had to confess we haven't the power, then we would be in a poor position. So that kind of problem to use judgment as to just how fast to increase your stuff—in normal times, it is not hard, but in special times, it is very difficult.

So that that is one thing that differs and, of course, all that means, as I said before, it means we have got to constantly go to the market for money to pay for all these im-

7996

William McClellan—By Respondents—Direct

provements, which is different from the average manufacturing organization.

—3,365—

The average manufacturing organization does financing now and then, chiefly when it chooses to expand its plant for its own reasons. We have to go whether we want to or not, because the public expands our plant.

7997

Then, another thing that we have in which our business is different from any other—I don't think there is any other business in the country unless it may be some of the chemical businesses that might have something like that—that has in front of it what we call the electric age.

We simply don't know from year to year just what is going to happen in the business owing to the fact that inventors, in research work, work all the time.

Now, for example, we started out on electric light; they hadn't developed the motor. When they developed the motor, that caused a great growth in business, and that has gone on and gone on.

7998

We have had the radio; we have had all sorts of things of that sort adding to our load; all the gadgets in the house, sweepers, irons, do everything electrically.

There is nothing corresponding to that in any other industry. Do everything electrically. Everybody is inventing new devices. We don't use a garbage pail. They want us to have a device with a kind of grinder next to the sink and put it in it that goes down in soup somewhere. All that kind of thing.

—3,366—

Then they are working at cold light. Now, cold light will take, perhaps, oh, it might come to take 10 per cent. Real cold light would take, maybe, one per cent., but semi-cold light would take ten per cent. of the energy of what we have been working on.

That would mean for a kilowatt hour you would get ten times as much light. We have got to think of that and that is on its way with this so-called fluorescent light.

Air-conditioning suddenly burst on us.

We were running along on a pretty steady even keel at that time, wondering where the next big bulge in load was coming from. Our air-conditioning comes on. That means we haven't any more off-peak. In Washington the peaks have vanished because the peak in summertime is almost as much as in wintertime, because of this air-conditioning.

What is going to follow air-conditioning I don't know. We have house heating. Inventors may find a way how to do it. So far they haven't.

So there is nothing corresponding to this continual growth in demand of this electric service in any other business that I know of. We have got to guess and be ready for it.

Now, the other funny part of it is—that is different from other businesses—we haven't anything, so to speak, to give to anybody except the residence customers. What I mean to say is, we have got to get ready for this war, for example, but the Government can't use a darn thing we produce. I mean,

—3,367—

we are auxiliary, so to speak, to every other business of the world. If you want shells, the Government gets the shells from the shell company, but we have got to give them power.

8002

William McClellan—By Respondents—Direct

We can't sell our kilowatt hours direct to the Government to be used as kilowatt hours. That is what I mean. There is nothing we can do with kilowatt hours except to get somebody to use them for something.

So the result is again it is just another example of the fact that other people are controlling our business so far as loads are concerned, so far as the demands are concerned.

8003

Some fellow over here in a big factory may decide tonight to go on a double shift. Well, if it does, that wouldn't mean we would have to have any more capacity, but he would run night and day on the same capacity; that would affect us.

Some other factory may be doubling his demand. That would double the demand on our stuff. All that stuff we have to continually guess at and we have to be continually watching, which gives you an idea of the kind of organization we have got to have as distinct from any other manufacturers.

8004

I don't know that there is any other—oh, yes, of course—I don't know whether I ought to bring it up before this body, but, of course, there is such a thing as regulation in the world, which is different from most other businesses, except the railroads.

—3,368—

That is, lots of things we would like to do, we have to get permission to do, get approval for and all that sort of thing, which I am glad to say, most of us are in favor of, even though it is sometimes irksome and a great inconvenience.

It all arises, of course, from the fact that if you have got to get your kilowatt hours from us, it didn't take very long to learn that there had to be some kind of regulation under those circumstances. But it does make a difference.

William McClellan—By Respondents—Direct

8005

Q. Do you feel that the development of the business has ceased? A. What?

Q. Do you feel that the development of the business has ceased? A. Oh, no. Oh, my, no. It certainly hasn't ceased industrially. Of course, if you look at the home, we are now doing everything, I think, that has to be done in the home. We are air-conditioning; we are doing everything that has to be done in the home now except heating the home, and that doesn't seem very near, but as soon as you step outside the home into the factory or into the office, there seems no limit as to what might have to be done.

8006

New jobs for the electric power to do just the same as the phrase we have, "Do it electrically." Of course, some years ago we did none of that, but now we dry paints, all sorts of curious things. We find it has special advantages—the fact that it is light, it has certain radioactive effects

—3,369—

while using the heat for drying. We find a lot of other things in it.

It is the old story, "Do it electrically."

8007

Now, we don't see the end of "Do it electrically." Just ahead of us there are a great many different things, none of which we see now, but judging from the way they crop up from time to time, there is no end to that development.

Q. Are all the employees of the company involved in your management problems? A. Oh, yes. Every last man in our organization we try to fill him up with the idea that he is part of the well-being of that company in how he behaves and how he acts.

8008

William McClellan—By Respondents—Direct

Now, there are some of them, of course, that have direct contacts. We used to have the notion that reading a meter was something for any old man that could stagger around through cellars and places like that. We have learned that that meter-reader has a direct contact.

8009

In the first place he enters a person's house in many cases—we are trying to get away from that by putting meters outside, but at present he enters a great many people's houses. Therefore, he must look—if we are going to have those people comfortable, he must look like an honest man; he must look like a clean, decent fellow.

In the second place, he gets into the house. He has got

—3,370—

to be courteous because all the way from the president of the company down to that lowest official—and I imagine the meter-reader is what you would call one of the very minor technical people of the organization—from the president, however, down, there is a very subtle transfer of thought in the minds of the people.

8010

If they see nice meter-readers, courteous fellows, clean-looking fellows come into their houses, somehow or other they think that company must be pretty decent. They don't think it all out. Don't misunderstand me, but there is a very psychological transfer of attitude there.

If the president of the company and the vice presidents are interested in community affairs and have rather generous notions about things and deal with things from the community's side of the picture, in a generous way, in some subtle psychological way, they get the idea across that this company must be pretty decent and so the behavior of every

William McClellan—By Respondents—Direct

last man—you may think a bookkeeper sitting inside a cage, never seeing anybody of the public—my gracious! we have had a lot of trouble with that. If they are careless, if they don't realize, after all, that a customer getting a wrong bill, for example, from a wrong chapter in the book or something like that, may undo all the good work that some of the rest of us have done just because the people think—they have got the idea we are nearly perfect, then somebody makes a mistake down in the cage there, then you are not perfect.

—3,371—

and you have lost as much as you have gained, so everybody everywhere, we believe, and we try to fill them with the idea that they mustn't try to do anything particularly, but just must behave in public and do their work like upstanding decent fellows. That is all we ask.

We don't ask them to go out and do anything positive to sell the company, but just decent, upstanding, thoughtful, conscientious, honest. That is what we want.

Q. Is there difference between the localization and non-localization of various management functions? A. Oh, well, if you take a long string of management functions, there are some that can't be done any other way but locally. There are others that might be done ~~well~~ locally, but not so well—and, of course, there are a great many others that just can't be done locally at all.

8013

Q. Could you give us some examples? A. Well, I should say anything that has to do with the individual service of the consumer, that the consumer knows about, must be handled locally. I say, "What the consumer knows about." It is not what affects the consumer, but what the consumer knows about.

8014

William McClellan—By Respondents—Direct

Now, what does the consumer know about? Well, he knows about whether his lights flicker, for example. He knows whether his bill was bigger last month than it was this month. He knows whether his certain devices are working right—these sweepers and these irons and things like

—3,372—

that.

He knows whether he is disturbed unduly by meter-readers; he knows whether when he gets his bill he has easy 8015 access of paying; he knows all those things.

Now, anything that has to do with that can only be handled with satisfaction locally. That is, where the consumer knows these things. For instance, you take—well, I think Mr. Stokes, if I am not mistaken, has given you a lot of data about a little town we had down south of St. Louis called DeSoto. It has been in the record.

It is a pretty good example, but if we do take DeSoto, now, there is a place that is half-way between the southern extremity—I don't know how many miles it is—forty or fifty—I have just forgotten how many miles it is down there, but it is long enough to be quite a distance away from St. Louis. It is even quite a distance away from what we call Webster Grove.

Now, those people down there—of course, all I know about the company is as it exists today. I do know something for the record and I think Mr. Stokes will tell you about it from the time he took it over.

I am not going over all that, but I do know today that if anybody in DeSoto—there is a fellow down there by the name of Henry Ditch. He has a couple of fellows helping

William McClellan—By Respondents—Direct

8017

him. He stays in DeSoto all the time and he has a girl
—3,373—

in the office that handles various things, also handles utilization equipment like heaters and things like that.

Well, if anybody, even if the lights go out in the house, of course word comes to Henry Ditch. Those people know him; he is in and out there all the time, so they call up Henry Ditch, and he has got to go down there. He says, "You must have done something; you must have short-circuited this." He sticks a new fuse and makes them happy and at the same time doesn't let them run away with the idea that it is the company's fault. He does it in a nice way.

8018

He says, "You must have short-circuited something." He takes a look at the cords. Maybe it blows out again and then he knows something is wrong. So he hunts up the cord and he says, "It is the cord on this side lamp here."

Well, all that sort of thing is building up fine public relations and it is also giving us the kilowatt hours from that lamp with the least possible delay, so both customer and the company win.

8019

Now, then, the next time a woman has a range, maybe, and she starts to cook a dinner and the darn fool range goes out of whack and, of course, it is a Westinghouse or General Electric, and she ought to call them about the range, but she doesn't—she calls up Henry Ditch and he has to hustle out and he can fix it maybe and maybe he can't. If it is something that he can fix, why, he fixes it right there quickly, but maybe it is beyond him and maybe he hasn't

—3,374—

got enough stuff in DeSoto to do it. If so, of course, there

8020

William McClellan—By Respondents—Direct

is a problem that can't be handled entirely in DeSoto. It has got to be handled somewhere else.

You have got to go outside of DeSoto, maybe to Festus, which is the headquarters of the county division. Maybe they will have organization enough to take care of it; maybe they won't. Well, if Festus can't do it, he goes up to Webster Grove, which is the head of the whole county organization. Maybe something has happened there that Webster Grove can't handle. I can imagine examples.

8021

It may be that there had been a heavy windstorm that has blown down a lot of lines. Now, Henry can climb a pole and fix a wire that has broken because he is an old lineman. He used to work on the line; a class A lineman. He might fix that, but if there is a dozen poles and a lot of lines blown down, even Webster Grove might not be able to handle it.

They might have to call in the whole St. Louis construction organization to get two or three gangs down there and get all those poles up and get them fixed up quick so as to restore service.

8022

So there is a great division between this local stuff, but by and large, the thing that the consumer—now the consumer doesn't know anything about—supposing he knows his lamps are burning out a lot. Now, he makes a kick to Henry. Henry says, "Well, I don't know what made those

—3,375—

lamps burn out unless your voltage is fluctuating." You know that if that voltage regulation is not right, if it is a 115 volt lamp, it shoves up 125 and down 104, those lamps will burn out quickly, so he tests the voltage out.

William McClellan—By Respondents—Direct

8023

The customer doesn't know about variation in voltage. He doesn't know we are compelled, as far as we can, to keep within certain limits and we do, but once in a while it gets out and we have got to correct it by some sudden load coming on, but Henry knows it, so Henry calls up.

Now, Henry can't fix that voltage regulation. It has got to be done by some substation outside of DeSoto entirely—maybe at Festus, and maybe when Festus tries to fix it and they can't because it might upset something else and somebody in the center, or it might upset something to the south and west. It is a great complicated thing with the local fellows doing their part in contacting the customer.

8024

Then it gradually reaches a step away from that local place. Each person has their part.

Now, I think that answers that question.

Q. Are there functions which can be performed better in St. Louis than in DeSoto? A. Well, obviously, yes. You see, as I told you, connecting and disconnecting services, customers moving in and out of houses, paying bills, these minor troubles, selling particularly small merchandise, all that can

8025

—3,376—

be handled, but these other things that I have talked about—for instance, even the preparation of bills would hardly be handled in DeSoto as economically and as satisfactorily as they could be handled elsewhere, but they might be sent and mailed from there.

Then, as I told you, the real trouble crews. You couldn't maintain sufficient trouble crews in DeSoto to meet any emergency at all. That could be handled away and a lot of the accounting can be very much better handled away.

8026

William McClellan—By Respondents—Direct

The minor accounting, what might be called day-book accounting, just mere records, can be handled in DeSoto, but that has to be put in a systematized account. Report to the Missouri Commission and Federal Power Commission, they have to go into the hands of experts and we can't have these experts everywhere—we have got to collect them in one spot—so there are a lot of things that can be handled very much better away.

8027 As I tried to explain, we start with a local place. The first place you get to for matters that can't be handled in DeSoto, is Festus. Then, Festus finds its limits. When you can't go to Festus, you go up to Webster Grove. Webster Grove finds its limit and there are a lot of things that have got to be handled. The only other place is St. Louis.

So there are a lot of things left over that have to be handled in a more constant concentrated place like St. Louis.

—3,377—

Q. What are some of the items which are necessarily handled in St. Louis? A. Well, the biggest item of all handled in St. Louis, of course, is power generation. Very naturally, 8028 we have got to generate our power in great big power houses to get it cheap. Well, Webster Grove is—anything below Webster Grove—even Webster Grove can't handle a problem of that sort, because they only know what power they need.

Somebody has got to be in St. Louis saying what Webster Grove needs, what all these places need and worse than that they have got to look at the growth of the communities and see whether they are going to stop growing or grow faster or whether their power needs are going to increase.

Nobody can do that. Now, that is on the demand for power. Now, as soon as they know that on a certain date

William McClellan—By Respondents—Direct

8029

you have got to have so much power, then, of course, the whole engineering department comes in. How are you going to get it? Shall we add to Cahokia, an existing power plant? Shall we add to Venice or shall we build a new one at Venice or Ashley Street, or shall we build a new generator up at Mississippi River Power Company or over at Osage, the big water power plant? How will all that be done? That can only be done at some central point that knows all these various things.

That is the biggest end of power generation.

8030

Well, next to power generation, you have got to hook all

—3,378—

these plants all together when you have got a lot of them. That can only be done at St. Louis. What we call transmission lines.

Then, even sub-transmission lines, which are simply underneath, subsidiary transmission lines, to get the small places—the transmission lines, themselves, being the big lines that connect up the main power houses and the big substation on Page Avenue. That has to be done by a central organization in St. Louis that knows the territory, knows where you can put underground, overhead, rights-of-way.

8031

That has to be done in St. Louis. I could go on and mention some of these problems. Then, of course, the main accounting has to be done in St. Louis for all the companies and our sales policies, in fact, most policies, general policy matters have to be settled in St. Louis because they take the attention of the principal executive officers.

Q. Are there functions which can not be performed in St. Louis? A. Functions, you mean of the company?

8032

William McClellan—By Respondents—Direct

Q. Yes. A. Well, there are functions that can be performed so much better outside, it is practically impossible to perform them entirely in St. Louis. That is the first thing.

In the second place, even if you could perform ~~a portion~~ in St. Louis, they could be done so much better outside that

—3,379—

it is a waste of money and inefficient to try to do them in St. Louis.

8033

Q. Could you give us some examples? A. The biggest of that is financing. It is almost impossible for us—it would be impossible for us in St. Louis to have a complete financing department because, in the first place, we can't get all the money in St. Louis.

Now, that is, of course, a fact that can't be denied.

In the second place, inasmuch as we can't get all the money in St. Louis, we have got to appeal to the country. We have got to go to the whole country.

8034

Then, you have got to have people in St. Louis that are accustomed to doing that particular thing and not doing merely local things. You have got to have an organization and a distribution department that can appeal to the whole country, that have what we call distribution, national distribution as against local distribution for securities.

With all due respect to St. Louis people, they might organize it with the help of other people outside, but they couldn't possibly, they haven't the distribution, to get the large sums of money we need from the whole country, and so on. You can go on with that problem.

When it comes to how you can get that money, we don't keep any, we can't afford, our financing doesn't come fre-

William McClellan—By Respondents—Direct

8035

quently enough to afford to keep a crowd of experts around all the time to determine as between preferred stock, bonds,

—3,380—

different kinds of bonds if we choose.

I mean by that, first mortgage bonds and debentures, and things of that sort you might want to issue, the relative marketability of those things at any given time, what they ought to be sold at, the determination of all those features, and then, of course, if a mortgage has to be written, we don't—there is hardly a lawyer in St. Louis writes a mortgage in twenty years, especially a public utility mortgage, which is an extremely different mortgage from the average mortgage owing to the way we have to operate, taking the property up and down, removing things, so that all those things, while we may do some of it and do some of it in St. Louis, it has either got to be completed—and the big ends of it is done outside of St. Louis.

8036

Q. Could you place all the common stock of the Union Company in St. Louis?

Mr. Odell: I am going to object to that question because I don't think this witness has been qualified to answer questions of that kind.

8037

Mr. Browning: I think the witness' experience has been shown to embrace practically every field of public utility management, Mr. Examiner.

Mr. Odell: Not in St. Louis, though.

The Examiner: This calls for more than public utility operation. It calls for a financial knowledge. Has he qualified himself along that line so far in this

—3,381—

8038

William McClellan—By Respondents—Direct

record? I don't recall it but maybe you can refresh my memory on that.

Mr. Browning: We can clarify that in the record.

By Mr. Browning.

8039

Q. In the course of your connection with various utility companies throughout your experience, Dr. McClellan, have you had any contact with their financing? A. Oh, I have had—in the first place, I have had information in that regard, but when you say "contact with financing," I have done nothing in regard to a great many of them, but now to recite where I have had what really might be called "contact," of course, in the Cleveland Company, we not only participated in arrangements, discussed the matter at home, but also participated in the arrangement for the sale of securities—Spencer, Trask & Company, Dillon-Read & Company—went through the bargaining with National City Company and things of that sort, so that was what I would call direct contact.

8040

In addition to all this enormous, what might be called "information contact" when I was with the Commission—but there I didn't do anything—I want to make that plain—I just observed what was going on.

In this other case, I actually participated in these things. Then, of course, in the Cleveland Company, we also had a campaign to sell common and preferred stock to the community.

—3,382—

The Examiner: Well, are you familiar with the—

The Witness: (Interposing) And I knew some of the difficulties and arrangements we had in connection with that.

The Examiner: Are familiar with market conditions in St. Louis? The availability of the St. Louis investors to absorb your company holdings and protect them?

The Witness: Yes, I am quite familiar with—I have observed what they can do and in various places I asked brokers about it and I know from experience—not direct experience in St. Louis, because I have done no financing there—but I have observed the houses. I know the size of things they are doing and I could say that there is nobody in St. Louis without outside help, who could handle a \$10,000,000.00 issue.

Mr. Odell: I am going to even object to a conclusion like that because I still insist that this witness has not qualified himself to give us financial expert advice.

The Examiner: I will overrule the objection.

The Witness: I beg pardon?

The Examiner: I say I will overrule the objection.

Mr. Odell: I am going to take an exception. I would like to have you consider that again because I submit that this witness has not qualified himself as an expert on financial affairs.

He has qualified himself as an expert on engineering matters, questions of management and oper-

8042

8043

8044

Colloquy

ation of utility businesses, but that is a long way off from being an expert on financial affairs.

As to the studies he has made on matters in St. Louis, I think that we at least ought to have the benefit of some more detail.

The Witness: Off the record, please.

The Examiner: Off the record.

(Discussion off the record.)

8045

Mr. Browning: Will you read the question please?

(Whereupon, the question was read by the reporter.)

The Examiner: What is the last objection? Read the last comment that Mr. Odell made.

(Whereupon, the above statement was read by the reporter.)

8046

The Examiner: All right. It is true that Dr. McClellan has only been the president of this St. Louis group of companies since the early part of 1939 and that may not be a sufficient length of time for him to have familiarized himself sufficiently with the security markets in St. Louis to express an opinion, but I think that the witness should be permitted to express an opinion formed on the length of time that he has been there and I will overrule the objection.

Mr. Odell: I think that his opinion should not be based on the length of time he has been there but

William McClellan—By Respondents—Direct

8047

the study he has made while he was there, and I object to this witness' answering Mr. Browning's question as to the ability to place common stock in

—3,384—

St. Louis until the witness gives us the benefit of a little more detail as to what study and investigation he has made of that general question.

The Examiner: What do you say to that, Mr. Browning?

Mr. Odell: May I finish, off the record, for a

8048

minute?

(Discussion off the record.)

Mr. Browning: In view of the objection we withdraw the question.

By Mr. Browning:

Q. What is your policy on purchases of machinery and equipment manufactured in St. Louis? A. Our policy on purchasing all equipment is to pay no attention to where it is made, but to buy it—first, as an initial matter—but to buy it, quality being considered, at the very lowest possible price.

8049

However, if a piece of equipment can be bought in St. Louis for the same or as low a price as it can be bought elsewhere, of course, we buy it in St. Louis.

In other words, we wouldn't pay any premium to give it to St. Louis people. We feel, in justice to rate-payers and everything concerned, we feel that quality considered, we ought to buy it at the lowest possible price. But, of course,

8056

William McClellan—By Respondents—Direct

we have an obligation at the lowest price, to give it to St. Louis. That is our general policy.

Now, then, of course, there is a great deal of material

—3,385—

that can't possibly be gotten in St. Louis at all and we must buy it outside of the city. That goes without saying. A great many things just can't be had there.

8051

We can't limit our buying to St. Louis. On these contracts, of course, purchasing materials are made at the lowest price and, of course, giving St. Louis the benefit of any buying at the lowest price.

Q. Well, is localization or efficiency your test of management? A. Oh, efficiency, just as in this little purchasing item I have just been talking about here, efficiency is an item.

8052

In other words, when we get it, the mere fact that it is made locally is interesting to us, but we first have got to be sure that we won't have to pay more for it to local men than we do any place else so that is a measure, so to speak, of efficiency.

The same in our engineering. We have local engineers, but we don't necessarily employ local engineers. I mean, if we have to go outside of our own organization for local engineers, we don't employ—we have a general rule that we will try to get St. Louis men for the job if we possibly can, quality considered.

We don't want to bring in a man from the outside, but if we can't get what we want in St. Louis, then we must go

—3,386—

outside and that applies to everything.

William McClellan—By Respondents—Direct

8053

Q. And it applies specifically to where you perform functions? The question is where you can do it the best? A. Yes. Where we can do it best is the—and by doing it best, of course, we mean other things—the cheapest in the long-run, the whole cost involved. It may not be the cheapest thing from the initial penny that we pay out or the dollar that we pay out, but everything considered—insurance, whether we shall deal through local agents or whether we shall go outside to outside agents.

All those things must be considered from its total cost and total benefit to the company, but efficiency is the measure of it and nothing else.

In other words, we wouldn't do a thing locally just for the sake of having it done locally. There is nothing like that. If it isn't efficiently done locally, we won't do it locally. If it is more efficient to do it outside, we will do it outside. That is our measure.

Q. You consider that a sound point of view? A. I consider it sound because I think I am sound myself and it is the point of view I follow in solving my problems. That is what I call management. That is my point of view.

8054

8055

(Discussion off the record.)

—3,387—

By Mr. Browning:

Q. Is size determinative of localized management in a public utility? A. I don't think size has anything to do with it, with localized management.

Localized management, irrespective of size, is what you can do best locally. I don't care whether it is big or whether

8056

William McClellan—By Respondents—Direct

it is little, size hasn't anything to do with the determination of what should be done locally. In fact, size may influence the answer, of course.

A great big thing may mean that more may have to be done outside than some little place, that is perfectly true, but it is efficiency that still controls, irrespective of size, what should be done.

(Discussion off the record.)

8057

The Examiner: We will have a little recess.

(Whereupon a short recess was taken.)

—3,38—

By Mr. Browning:

Q. Do you regard size as determinative of management in a public utility? A. No, I do not. I think, from my experience in management, that, of course, the thing that determines everything in management is the efficiency.

8058

In my experience, generally speaking, especially in our business where the two questions have come up, efficiency and regulation, it has been my general experience that the larger you get a company the more efficient you can expect it to be and the more easily you can expect it to be regulated.

Now, the question of size has to do with the nature of your organization.

Of course, as the thing grows in size you have got to make sure that the character of your organization fits the complete job that has to be done, but that is just as well done for a large company as it is for a small company.

William McClellan—By Respondents—Direct

8059

The difference between localization and outside management or top management, the proportion between the two has to be adapted, but it can be adapted to give you maximum efficiency, and I think better with a large company than with a small company.

In fact, the whole history of this thing, from beginning to end, of our industry, has been the stepping from small to large, to get efficiency, whether it is in power generation, whether it is in merging little bits of communities like the

—3,389—

8060

DeSoto thing you have been hearing about from Mr. Stokes, whatever it is, it is the stepping of the small to these large, to get efficiency, and then adapting the organization to fit that whole subject.

Now, therefore, I know this North American organization, for example, that we are talking about here, ever since 1920 or thereabouts, perhaps—yes; oh, I know it before that; I know it intimately since 1920, and I know it since about 1916 or 1917, shortly after I left the Commission, but I was more closely connected with it from 1919 and 1920 on.

Now, I can't—it seems to me that an organization like that is very much like some of our huge manufacturing organizations in the country: I have never heard of General Electric Company, for example, with plants in different cities, with strong localized management in those plants for what they could do in those plants, but with the top management in Schenectady and one in New York adding on and doing the things that couldn't be done locally, I have never heard anybody in the world call that organization inefficient because it was big.

8061

In fact, I have just heard the reverse.

8062

William McClellan—By Respondents—Direct

In the same way I have observed organizations like General Motors, with plants stuck everywhere.

So here we are. I don't see that size in any case, if I

—3,390—

start out with De Soto—De Soto people are infinitely better off than they would be if they were not part of a large organization.

They are getting more reliable service and I think they are getting cheaper service.

8063

I am talking about what I have seen, what I have known and—

Mr. Odell: (Interposing) What are you referring to, Dr. McClellan?

The Witness: I have just happened to pick out the town of De Soto that you have been told some of the details about by Mr. Stokes.

We have just dozens of towns just like it.

8064

There is no question but what, as you go up in size, in our kind of business, you get increased efficiency and you also, I think, which is another important point—I have even heard—I can't recall of specific cases just at the moment—but I know in the New York Commission we used to think we could regulate the big companies a darn sight more easily than the little ones, and I have heard of other commissions in other parts of the country tell me that the big companies were much more easily regulated than some of these little companies, because in many cases they had more resources, stuff could be brought to them in better shape—

William McClellan—By Respondents—Direct

8065

Mr. Odell: Mr. Examiner, I am going to object
—3,391—

to what some of these other commissions told the witness. I think that ought to be stricken from the record.

Mr. Browning: I think the witness is giving us the benefit of his experience, Mr. Examiner.

Mr. Odell: That is an important question in this case perhaps.

We don't have these other commissions or commissioners present so that we can cross-examine them as to what they said and why they said it.

8066

Mr. Browning: I think the witness could drop what other people told him and give us his own conclusions.

Mr. Odell: I think that portions of the record that contain statements of what other people have told this witness should be stricken.

The Examiner: That is clearly hearsay and I will grant that motion.

8067

By Mr. Browning:

Q. Then I will ask the witness for his own conclusion as to these particular tests.

The first test which I want to ask him about is: "Not so large as to impair the advantages of localized management." In your opinion, is size determinative of the advantages of localized management? A. Oh, not at all; not at all. I think that the advantages of localized management

8068

William McClellan—By Respondents—Direct

can be had in any situation which is big enough, really, to

—3,392—

permit of local management, versus the other.

In fact, I think you can get the advantages of localized management with big organizations just as well as you can possibly get it with small organizations, and perhaps better, so that I don't think size there enters into it.

I don't see how it could interfere with localized management.

8069

Q. In your opinion does size impair "efficient operation"?

A. Oh, my gracious, no. Just the opposite. Just the opposite.

I think, as I have testified here—I think I have said it two or three times—I think that, as you grow in size, with proper organization, I don't see why efficiency shouldn't increase rather than decrease.

It does in material things; there is no question of that. Take a power house, for example.

8070

There is no question about it that, for various reasons, a 300,000 kilowatt power house—there is no question about it being more efficient than a 50,000 or 25,000 kilowatt power house.

First, because the units themselves are likely to be more efficient, and secondly, you can afford—on that big base—you can afford to put brains in to operate it, to get an efficient job, that you can't afford to put on a small one.

—3,393—

Q. You have testified as to extensive experience with commission regulation.

William McClellan—By Respondents—Direct

In your opinion does size impair the effectiveness of regulation? A. No, I do not think it does.

I think—In my experience, I think that the effectiveness of regulation—meaning by that the effectiveness of getting through cases and getting the facts and all that to be discussed—I know, from my own experience with the New York Commission, that the larger companies were very much more easy and I have heard Chairman Stevens tell me, that, definitely—

Q. (Interposing) Just a moment. A. The larger companies were much more easily regulated than the small ones—I will say the small ones—and there are reasons for it, why they should be.

Those men come up from those large companies with all the data, the information, that is needed for regulation, in far better shape.

The lawyers are better trained, more familiar with what they are doing, because they have more of it to do.

The engineers, the accountants, come up with everything in far better shape.

Time after time I personally have had to ask for things and wait weeks for it, in the case of small companies.

—3,394—

Everything comes up in fine shape from the larger companies, so that size, as far as regulation is concerned, unquestionably, in my mind, means efficiency.

Q. What has been the general policy of The North American Company with respect to local autonomy of its subsidiary companies?

8074

Colloquy

Mr. Odell: Mr. Browning, before you go into that question, I want to know whether the record shows that what Dr. McClellan says about what Chairman Stevens said is eliminated from the record.

Mr. Browning: That is agreeable, yes.

(Discussion off the record.)

The Examiner: That quotation from Chairman Stevens is stricken.

8075

Mr. Browning: Will you please read the last question, Mr. Reporter?

(Whereupon the pending question, as above recorded, was read by the reporter.)

8076

The Witness: Well, that—I have forgotten just what year it was that Mr. Frank Dame came into The North American System, but he was the one that established this general local autonomy system, or rather the division between local autonomy and North American's relationship to these companies. He believed that—and the Company has practiced it—he believed in a very maximum amount of local autonomy; that is, putting men in charge of these

—3,395—

companies who really, so far as they were concerned, operated these companies as if they had the sole responsibility for operating the companies.

Nevertheless, of course, the wisest of them not only remembered the relationship of The North American Company to them—they had a right to know what was going on; many times a right to know in

advance of how problems were going to be decided—but nevertheless the decision was left in the hands of the local man, and that was, of course, partly because The North American System is made up of a relatively small number of very large, important companies at some of the principal cities of the country, and not of a huge number of little bits of companies that confessedly could hardly stand alone, and confessedly one hundred per cent. local management of companies of that sort was impossible.

8078

Of course, it is equally impossible, in my opinion—but not to the same degree—even in a company as big as some of the companies I have been connected with, like Cleveland, St. Louis; that is a good illustration of the proportion of it—cities of that size can have a great deal of local autonomy but they can't possibly do everything locally that will make for the greatest efficiency in every direction.

Now, I, for example, in my association with the Cleveland Company, as a vice president—we are talking of The North American System now—and with the St. Louis Company, I can't recall a single time

8079

—3,396—

when I have ever been ordered to do anything.

The method has been to, in the first place, as I sat in those companies, all those three companies, as an executive officer, sometimes I decided it was not necessary to discuss it at all with The North American Company; other times, when my mind was made up to do a certain thing, it was wise to say something about it.

8080

William McClellan—By Respondents—Direct

Always remember that, in my opinion, from all my experience with these companies, a man would be a sort of foolish man, who, with all those facilities for advice on strong, hard problems, wouldn't make use of those facilities, for which he was getting good advice, even though the responsibility was finally on him to decide what to do.

8081

Now, I say I have never been ordered to do anything. There have been times when there were sharp differences of opinion, but all I have to say is that out of it there came a reconciliation of views, so that it was never necessary for the owners of the property—and in spite of all the local autonomy you can think of, you can't deny that there you have in many cases the owners of the property, you are talking to the owners of the property, and, therefore, their views, expert and otherwise, are entitled to a great deal of weight—but I know of no time in my history that they have ever said, "You do so and so", and especially against any ideas that I had myself.

8082

—3,397—

The responsibility is put on us pretty heavily to solve the problem, and that is—I am talking now from my personal experience with this, not of anybody else.

I have seen some of the others and I know they feel the same way about it. I mean we have talked together. Mr. Way—I mustn't say that.

By Mr. Browning:

Q. Doctor, you can— A. Leave that out?

William McClellan—By Respondents—Direct

8083

Q. —leave that out, what the others told you. A. Fortunately I didn't get that far.

Q. Well, now, Doctor, turning to the St. Louis management situation, which you found when you went to St. Louis in the spring of 1939, was the former executive management local in character? A. Oh, yes. The former executive management at St. Louis was local in character. It, in reality, consisted of two people—Mr. Egan and Mr. Boehm.

Frank Boehm was a Missouri boy who spent his whole life with this company and, so far as I know, so far as I can remember—and if he did it was very slight—he never had any business experience outside of Missouri and outside of this company.

Q. Can you tell us when Mr. Boehm entered the employ of the Company? A. I had it here somewhere. I will find it.

—3,398—

Q. I think it is right there in your notes, Doctor (indicating). A. I don't know whether I had put it in these notes or whether they had been put in the notes.

Yes, it is right here (indicating).

8085

Well, Mr. Frank Boehm was born in Missouri. He entered the service January 4, 1910, as a clerk, and has come up through various promotions until he got to be executive vice president January 1, 1936.

Q. That was Mr. Boehm? A. That was Mr. Boehm.

Now, Mr. Egan—he joined the Union group on November 1, 1916, as assistant general manager, and then he became vice president later; president April 1, 1920 and was president until 1939.

8086

William McClellan—By Respondents—Direct

I do know that Mr. Egan was a product, more or less, of Missouri, as well, because his father was interested in street railways—I think president or general manager of the street railways of Kansas City, Missouri,—and I knew that Mr. Egan was there before he came there, so he had a very much larger experience in St. Louis than his life with the Union Company would indicate.

Now, this management consisted of Mr. Egan and Mr. Boehm and, if one were to divide the management into in-

8087

—3,399—

tensive management and general management, Mr. Boehm was a very large part of the management of the Company.

Mr. Boehm left St. Louis with relative infrequency. I mean to say he did little traveling.

He spent his time around St. Louis. I never met him often at conventions.

I used to meet Mr. Egan all the time at conventions but I seldom saw Mr. Boehm in New York; often I saw Mr. Egan there.

8088

I know that he spent a great deal of his time right there. Now, that is the men that were doing it and they didn't have the kind of organization that I would have, but nevertheless I have got to acknowledge that those men did have fairly good public relations, as I heard when I came to St. Louis.

They had a good organization for accomplishing things in some way or other.

The thing I objected to, however, would be that they did not give them any chance to grow, and there was too much individual responsibility on the part of one man, which is contrary to my methods of organizing anything of that sort.

William McClellan—By Respondents—Direct

8089

Moreover—I don't know how to put this without objection—I, for a great many years have had the distinct impression—rule this out if you want to—from conversations, and so forth, remarks dropped, that these men wanted to

—3,400—

disregard, as far as possible, any influence from New York, and wanted to have an intensely local management.

It is almost well known among us—if you don't want it in, you can rule it out—I can't give the day or anything of that sort, but it was an intensely local management and with a certain disregard, as far as possible, of the New York management or New York authority, which, as I have told you, in my own case, we carried many problems out there, but the question of authority in New York was never exercised, even though it might have been present.

8090

They were perfectly willing to let the man have full authority, but they wanted to know what was going on, wanted to know how he was behaving, but they didn't have him as any agent of theirs in the place.

8091

It was intense—that is the surprising thing, that St. Louis, even with all that, with all the liberty of autonomous management, that was not given to anybody else in the companies in the other places, that it happened as it did there.

Q. You mean that St. Louis didn't have even the ordinary contact with New York? A. Well, I can't speak—all I know is that I frequently have seen Mr. Way of Milwaukee and Mr. Crawford of Cleveland up there.

We have talked and chatted about our common problems. I would even almost go so far as to say that I almost never had a conversation with Mr. Egan, and certainly not with

—3,401—

8092

William McClellan—By Respondents—Direct

Mr. Boehm, in New York, except on specific things once or twice in fifteen or eighteen years, whereas the others I might frequently—we talked over things.

Not officially, I mean to say, not by design, at any time, but we just bumped into each other.

Mr. Browning: I should like to have this chart marked as Respondents' Exhibit No. 62 for identification.

8093

(The document referred to was marked for identification as Respondents' Exhibit No. 62.)

By Mr. Browning:

Q. Dr. McClellan, was this chart, Respondents' Exhibit No. 62 for identification, prepared under your supervision, to show the organization set-up of the Union group? A. This chart—

Q. (Interposing) Was it? A. Yes, but I have got to explain that it is the organization of the Union group as I hoped to complete it, and as I am in process of completing it, 8094 not that it is complete at present.

Mr. Browning: I offer this in evidence as Respondents' Exhibit No. 62.

Mr. Odell: No objection.

The Examiner: It is received in evidence under that number.

—3,402—

(The document referred to was received in evidence as Respondents' Exhibit No. 62.)

William McClellan—By Respondents—Direct

8095

By Mr. Browning:

Q. Now, Doctor, will you describe the steps which you are taking, referring to the chart when necessary? A. As I told you before, the management I succeeded was a very much centralized management, almost in one man, with everybody else acting under almost his personal orders, and no man having been given definite responsibility without a string on it.

Special jobs were handed around hit or miss, so that jealousies, troubles of that sort, came into it.

8096

So, in making this up, which was what I went out there for to handle this company, I had those two or three things in mind:

First, to put definite responsibility on responsible officers, have them report so that they would know—to various bodies—so they would know they were responsible; have the responsibilities definite so that there couldn't be jealousies arise between different men, as happened in the old organization, as to who was going ahead and who wasn't going ahead, and things of that sort.

8097

So it starts out—this particular diagrammatic arrangement is merely to keep from crossing lines unnecessarily—with the Board of Directors on the vertical line on the end.

—3,403—

Now, reporting to the Board of Directors is the president, the secretary, the comptroller, and the executive vice president. Now, the executive vice president is in effect what is generally called a general manager.

In letting him report to the Board of Directors, that is something new. The general managers usually report to the

8140

William McClellan—By Respondents—Direct

I made the remark to my directors that I was very sorry to have to operate without them because, while they didn't hold me back, at all, nevertheless, it was very great value to be able to go up and talk to men who were looking at other companies and had an interest. That is the point.

I can go to lots of consulting engineers and lots of consulting accountants and get advice on what to do, but the trouble about all those fellows is that they haven't an interest in the thing, a vital, and I might just as well say financial interest in the problem the same as I have.

8141

Therefore, the advice of those men of The North American is different from any other advice you get. In my opinion, it is better for that reason. It is interested advice, but all out in the open, so far as the top management is concerned.

—3,420—

8142

Mr. Browning: I should like to have marked for identification as Respondents' Exhibits 63, 64 and 65, three tables. The first of these, Exhibit 63, which is entitled "The St. Louis County Gas Company" shows the securities issued by the company with date of issue and date of retirement, among other information.

(The document referred to was marked for identification as Respondents' Exhibit No. 63.)

Mr. Browning: The second, Respondents' Exhibit 64, also entitled "The St. Louis County Gas Company," shows gross income by years from 1912 to

8098

William McClellan—By Respondents—Direct

president, but it serves to increase the prestige of his position, to make him know that he doesn't really have to do—that he has access to the Board of Directors and doesn't have to

Now, it is the same way with the comptroller, although that is part of the development of the age, that the comptroller do just what the president tells him, and that sort of spirit. Ier, instead of being merely a head bookkeeper, is a very important part of the organization.

8099

I remember, when I came to Washington, I called the comptroller in here and told him that he had a right to come into my office and tell me that, as president, I didn't have the right to spend money, and question my authority. I believe that to be true.

So that the executive vice president, as I say, reports—comptroller reports to the Board of Directors; the Secretary naturally reports to the Board of Directors, because he keeps the minutes; if for nothing else, he reports to the Board of Directors for that reason.

—3,404—

8100

Now, they all also report to the president of the company and you will notice the comptroller and executive vice president—all vice presidents as such—for example, we have a vice president in charge of sales; so far as these sales are concerned he reports to the executive vice president or general manager, but, as a vice president, he reports to me.

I wanted the chart to show that no vice president was going over the head of some one else if he wanted to come in to see the president.

So it is all vice presidents as such, whether they have managerial duties or not.

William McClellan—By Respondents—Direct

8143

1939, with interest on funded debt and times interest earned.

(The document referred to was marked for identification as Respondents' Exhibit No. 64.)

Mr. Browning: And the third, "The St. Louis County Gas Company" has a sub-heading, "Earnings available for common dividends and amount set aside for depreciation reserve."

(The document referred to was marked for identification as Respondents' Exhibit No. 65.)

8144

By Mr. Browning:

Q. Dr. McClellan, were these tables prepared under your direction and the information thereon taken from the books and records of the company? A. They were prepared under my general direction and I know they were all taken from the books and records of the comptroller. I recognize some

—3,421—

of them but I don't recognize every one of them—I mean every figure on them—but they were, I know, taken from the books of the company.

8145

Mr. Browning: I offer them as Exhibits 63, 64 and 65.

Mr. Odell: No objection.

The Examiner: These tables are admitted in evidence under the numbers assigned to them.

(The documents referred to were received in evidence as Respondents' Exhibits Nos. 63, 64 and 65.)

William McClellan—By Respondents—Direct

8101

Now, the treasurer, of course, reports to the president.

Now, the non-operating companies, of which we have three at present, all to be dissolved at soon as they can legally be dissolved—there is absolutely no reason for keeping them; nobody wants to keep them, but by law those three companies, an account of a few damage suits—that is the only reason they are living, but by law you can't get rid of them until you have gotten rid of all their liabilities. So you are just stuck.

That is the reason for those three particular non-operating companies. That is a nuisance to us and everybody else.

8102

Now, then, we come down underneath. The vice-president—up toward the left there (indicating)—in charge of corporate affairs, is Mr. Woodbridge, a lawyer.

—3,405—

He has general charge under me of all corporate affairs. I could tell you a lot about him.

Everything that has to do—we are getting rid of companies; we are making reports to commissions; we are getting orders from the Commission; we are handling valuations; we have complaints; we have licenses; we have in the nature of easements, almost like franchises in certain cases, the essentials of franchises, everything of that sort, anything that is in the nature of a corporate affair Mr. Woodbridge passes upon, or taxation matters—he is the final authority under me in regard to those matters, so there is no staff shown on this, of course.

8103

Mr. Woodbridge has a large number of departments that report to him, but are autonomous, again, as far as they can be.

The comptroller, of course, has an enormous staff.

8101. *William McClellan—By Respondents—Direct*

The executive vice president has these departments (indicating). His staff is shown on here (indicating).

Now, the operation which has to do with everything except generation, so to speak—that is, the men in charge of generation put the kilowatt hours on the bus bars and this man Miltenberger, "Operation", takes them away by transmission lines, distribution lines, services, and things like that.

8105. The construction department is in process of organization. We haven't given it concrete form yet.

—3,406—

The Electrical Engineering—you have met Mr. Stokes. I found him when I came here. That is what I meant by saying they had good men.

Mr. Miltenberger has been with this company a great many years, certainly over twenty years, and I found him to be a most useful man and a most able man.

Mr. Stanley Stokes—you have had a little sample of him. I have high regard for him as an engineer.

8106. Mr. Tenney, in the same way, is in charge of Steam Plants. He has been with the company a great many years. I think most of that has been described to you.

Q. Yes. A. I am just speaking generally. I didn't have to go out and find somebody for this purpose.

Mr. Berry has been with the Company, and Mr. Michel—he has been here before—with the Commercial Department; very able men.

Purchasing—now, this is a new man; we found a purchasing department that was in the hands of a man who is about physically disabled, and, to a certain extent, men-

William McClellan—By Respondents—Direct

8107

tally disabled, and we had to—there was nobody in St. Louis, so I put that in the hands of Mr. Gushee, who had been in Detroit and he knew this man Covell.

We got Mr. Covell from Detroit on a temporary basis and finally made his position permanent. He had so much

—3,407—

experience—of course, I could have found some good-looking fellow in St. Louis, and I might put him in the job and train him, but we couldn't afford that with our huge purchases.

We had to have a man with a great deal of experience, and so he knew of this fellow, and he was brought in from the outside.

Steam Heating—Hillemeyer is an old fellow who has been with us a long time, doing a good job.

Property Records—that is Harold W. Ross.

Now, here is St. Louis County (indicating). That happens to be a separate operating division and Mr. E. H. Lewis is in charge of St. Louis County. The headquarters is at Webster Grove.

Mr. Lewis also runs other county operations, like Jefferson County that we have been talking about, all outside of the City.

He is an extremely able man, and I had no reason to change him.

Personnel—Alderson is one of the older fellows. He has charge of everything relating to personnel.

Rate Research is a very important department, extremely important department, because we can't wait until troubles come with rates before we fix them; we have got to be constantly looking ahead.

8109

8110

William McClellan—By Respondents—Direct

Our rates—all rates of all companies have grown up—

—3,408—

it is a kind of hodgepodge, owing to the way they grew in the early years.

The result is that now there is hardly a company that I know of that isn't fixing up its rate systems, to get all sorts of dislocations out of them, and we have to take advantage of that, of course, because one thing you can't do is raise anybody's rates in a rate adjustment, if you can avoid it.

8111

So, as a consequence, if the time comes to make adjustment in rates, then we have got to have a lot of studies in advance to try to get some of these dislocations that have grown up in history, with all rate systems of most every company.

Some companies are more fortunate than others, but I know of very few that haven't got relics of history that bother them all the time.

8112

So that this rate research bureau is studying rates all the time, to find out what is the matter, so that we will know what to do with them when we get a chance, and, in spite of everything else, I think rates are coming down in this country.

Things may stop it for a while, but generally speaking, they are on their way down.

Advertising speaks for itself. Mr. Holland has been with us a long time.

Then the Stores Department; general storekeeper Mr. King. He has been with us a long time.

—3,409—

William McClellan—By Respondents—Direct

8113

There are very, very few new men. I picked Mr. Heren, who is a general assistant over here. He just picks up a lot of things. We have investigations made by him, if there seems to be trouble anywhere. He also pays attention to content and editing of our employees' magazine. He does a great deal of reading of everything that comes out which might have reference to the company, digests it and lets us have it, and then he sits in discussions.

As I told you, I put him on one of his main functions, which is to make sure that he, at least, of all of us, keeps the public point of view.

8114

He is a sort of devil's advocate in everything that comes up. He is arguing for the public so that we won't forget it and be too corporate. That is what we are trying to do.

He is a newspaper man. He is not a publicity agent or anything of that sort. We keep him out of that entirely. That is Mr. Holland down here.

We have got these subsidiary companies:

First, the Union Electric Company of Illinois. The manager of that is Mr. Welsh—the East St. Louis Division that is.

8115

The Mississippi River Power Company—that is Mr. Dickinson. That is a subsidiary company.

The Union Electric Company of Missouri, Cupples Station Light, Heat & Power Company, St. Charles Electric Light & Power Company, Lakeside Light & Power Company,

—3,410—

Union Electric Land & Development Company.

Lakeside is going out and St. Charles is going out. I think, within six months, there will be only two companies. Three of them are going out.

8158

William McClellan—By Respondents—Cross

PROCEEDINGS

The Examiner: The hearing will come to order.

Whereupon, WILLIAM McCLELLAN resumed the stand and testified further as follows:

Cross Examination by Mr. Odell:

Q. Dr. McClellan, I believe that you testified that you were employed by the Second District Public Utilities Commission, which was the New York State Utilities Commission regulating utility companies in the state of New York except those in New York City, in the period between 1911 and 1913. Is that correct? A. That is correct.

8160

Q. Then in 1913, you formed a private engineering firm which continued until 1916— A. (interposing) No, I testified that the firm had been in existence and that one of the conditions on which I took the New York State Commission job was that the firm could continue. I was not able to give much attention to the private business but it was going on and Mr. Campion was there. The office was kept open but I did not do any outside work.

Q. You went— A. (interposing) I went back to the firm that had been in existence before I took the Commission job.

—3,426—

Q. I believe you stated that during the period from 1913 to 1916, you were also assistant to the president of Buffalo General Electric Company, is that correct? A. No, one year, just the year after that I resigned that job, from 1913

8116

William McClellan—By Respondents—Direct

Union Colliery Company. The St. Louis & Belleville Railway has to stay and the St. Louis County Gas Company is more or less permanent.

Now, that is the kind of organization that just as soon as it is completed—it is partly done now.

Q. I don't believe that you told us about Mr. Gushee's prior experience before coming to St. Louis. What was his— A. (Interposing) Well, Mr. Gushee's prior experience—he had a very, very varied experience, I think, in certain things out west, nothing whatever to do—

Q. (Interposing) I mean, with what company was he connected before he came— A. (Interposing) I think the Detroit Edison Company was the only utility company. He had gone with that in various ways and had gotten to be one of the top in the principal officers of that company, when I got him down here.

Q. Could you have secured people with the ability and experience of Messrs. Gushee and Woodbridge in St. Louis? A. Oh, no. In fact, it was difficult to get anybody like what I wanted in a man like Gushee anywhere. In other words

8118

—3,411—

I was hunting for a pretty top man. Not only that man couldn't possibly be found in St. Louis, there was no possibility of his getting experience. The Union Company had nobody.

Certainly, under the circumstances we were operating there, we were mixed up in some questions that were under investigation that was impossible to get anybody in St. Louis with the experience, that knew the utility game.

In fact, I suppose, I, myself, having to go out there much against my will is partly an illustration that at least the

William McClellan—By Respondents—Cross

8161

to 1914, that I was assistant to the president. It was really one year.

Q. And then you returned—— A. (interposing) And while I had that position, I still was with my firm.

Q. I see. In describing your duties with this firm, Doctor, you stated as follows: "Of course, I was with the New York Commission, I was with the New Jersey Commission, Utah Commission, Colorado Commission, North Carolina Commission, Washington Commission. I think I was before the California Commission."

8162

Referring to that statement, Doctor, will you tell us whether you were a member of all of those Commissions? A. That testimony ought to be corrected. I appeared before them all. I was not a member of any Commission at any time in my life. That testimony has to be corrected to just not with them but appeared before them.

Q. And referring again to that statement, Doctor, were you ever employed by any of those Commissions during this period between 1913 and 1916? A. Only by the New York Commission twice and by the court of New Jersey once.

8163

—3,427—

That is all.

Q. I am referring to your activities in the period between 1913 and 1916. A. No.

Q. Were you ever employed by any of the commissions that you have—— A. (interposing) Not in that particular period that I can recall, no. I was employed by various utilities companies and I appeared before these commissions in cases. That is all.

William McClellan--By Respondents--Direct

people who sent me there thought they couldn't find anybody in St. Louis.

Q. Doctor, I don't think you mentioned the personnel of the board of directors. A. Well, perhaps—

Q. (Interposing) What have you in mind for the board of directors of the Union Electric Company of Missouri and the St. Louis County Gas Company? A. Well, the board of directors now is really the officials of the company. That is what it amounts to, which is, after all, not a very surprising thing with a single stockholder, because it is a close corporation, but for the purposes of efficiency, the purposes of making sure that we don't make mistakes, I am very anxious—in having the benefit of advice, I am very anxious to get the kind of board that I had here in Washington, a board of which at least half of it is made up of very prominent, independent, local citizens, the same kind of board I have worked with here in Washington.

In St. Louis, at present, it is really made up of the officers of the company, nobody else connected with it, and I don't like that, and I want to get it just as soon as we can to get a board of perhaps eleven, with five or six independent citizens of St. Louis right on the board, and then, perhaps, officers of the company. That is all right. There is a tremendous advantage to the man that is operating the company to have that, tremendous advantage.

He gets help in all his local problems. He has the responsibility to these independent men to care for not only his personal conduct, but his official conduct, and it is a great help.

8164

William McClellan—By Respondents—Cross

Q. In other words, you were retained by various utility companies to appear before the various commissions that we have just described? A. Quite right.

Q. Then I believe you testified that from 1916 to 1919, you were Dean of the Wharton School of Finance and Commerce. Is that right? A. Except for the particular close accuracy of the dates. That shows about the period. I do not mean to say I was there from January 1, 1916, but it was about the period.

8165

Q. Is the Wharton School of Finance and Commerce a school for electrical engineers? A. No, it is a school for just as it is called, Wharton School of Finance and Commerce. It is to give a man training in business.

Q. In other words— A. (interposing) It has noth-

—3,428—

ing to do with engineering at all.

Q. And during this period from 1916 to 1919, did you do any work for state commissions? A. I do not believe I did. I can't remember. My firm, my partners, were bothering me all the time because I was so totally away from the firm but I cannot remember just at the moment—

8166

Q. (interposing) And you confined your activities— A. (interposing) To work as Dean of the Wharton School entirely and, as I described, to this Intercollegiate Intelligence Bureau which I had in Washington and which I organized while I was Dean of the Wharton School for war purposes.

Q. Then you resigned as Dean in 1919 and went to work for the Cleveland Electric Illuminating Company? A. That is my recollection, that it was fairly close to Armistice Day in 1919.

8122

William McClellan—By Respondents—Direct

Q. Do I understand correctly that your aim is and that you are now working to reconstitute the St. Louis management along the lines which have been followed in Washington, Milwaukee and Cleveland? A. Just about, yes. They have the same—it may differ in some details, but the same underlying principle of fixing responsibility and then having it definite and then making the men carry it out, not having any uncertainty as to what a man's responsibility is or that it is his job.

8123

Q. Doctor, I think you mentioned briefly the financing assistance which a North American subsidiary receives from North American. Have any of the subsidiaries with which you have been connected had organizations which have had

—3,413—

8124

the financing experience that North American has had? A. Well, I can speak from personal experience with three of them, because I did do financing with the Cleveland Company when I was vice president—came down to New York and discussed the issuing of bonds and, of course, I went through with the Potomac Company, the first initial bonds under competition sold some bankers which was a very unique experience.

Secondly, selling bonds to an insurance company, then—that was the two—then, in the St. Louis Company I have had no—done no financial work for them in the way of selling securities, but I know what their facilities are, so I can speak personally for that.

Now, the truth is that up until very recently, when we financed every year, and even then it wouldn't work very well—financing hasn't been done frequently enough to war-

William McClellan—By Respondents—Cross

8167

Q. And you continued with the Cleveland Electric Illuminating Company until sometime in 1921? A. I think that is correct, yes.

Q. During this period while you were associated with the Cleveland Electric Illuminating Company, were you a member of any state commission? A. No.

Q. Were you employed by any state commission during that time? A. I think not.

—3,429—

Q. Your contacts with commissions during that time, I take it, were with the Ohio state commission? A. With the Ohio state commission and there may have been some others because my business firm was still going on. It was never interrupted.

Q. Your engineering firm? A. Engineering firm but, of course, I devoted practically all of my time—as a matter of fact, I did not live in Cleveland. I went out there every week.

Q. Then you stated that in 1921 you left Cleveland Electric Illuminating Company and formed the engineering firm of McClellan and Junkersfeld? A. That is right.

Q. And you continued with that firm until 1929, is that correct? A. I cannot be sure of the exact date. Yes, I think that is probably correct, as far as I can get at it. It is probably correct.

Q. I believe you stated that during this period between 1922 and 1929, the preponderance of your work was with utility companies, assisting them in the construction of plants and acting as consulting engineer for various utility companies? A. I should say the preponderance of it in dollar

8169

William McClellan—By Respondents—Direct

8125

rant any of these companies in keeping a sufficiently expert financial organization to do everything connected with the financing, just not in the goods.

The result is that Cleveland had nobody. As a matter of fact, the only two people that participated in that financing were Mr. Lindsay and myself, with some discussions with the board of directors, because Lindsay had some independent members on his board of directors.

In the Washington situation there was nobody except myself and Mr. Neal, who is now president, and members

8126

—3,414—

of the Board of Directors who have discussed financing, but none of them could have possibly given me all the help I needed in connection with that financing.

I don't mean to say that we couldn't have financed without New York, by some means; I am not saying anything like that, but I am saying I could not have done it as well and if we had tried to do it ourselves, I would have had to try to get help such as New York gave me and, personally, I don't think that help is available.

8127

Q. Does North American help in these financing matters result in substantial savings to the subsidiary companies? A. It has been my belief that that is true. I can't measure the savings. There is no way I can do that. But it has been my opinion, definitely, that we are better off to have their help financially than we would be otherwise.

Q. Now, Doctor, we have had various testimony from Messrs. Stokes and Michel, as to the contacts of the St. Louis organization with other subsidiaries of The North American Company. As a chief executive of the St. Louis

8128

William McClellan—By Respondents—Direct

Company, are you interested in the maintenance of these contacts? A. Yes, very much so. Not only as chief executive, but because, in past years, I have, personally, had opportunities to find out the real value of these committees to the individual companies.

—3,415—

8129

Q. What value do they have? A. Oh, they have this value, that you are able to get together a group of men doing the same kind of work, solving the same kind of problems, but because of the peculiar relationship, they have no inhibitions at all about telling everything they know. I mean, as distinct from going to any trade organization or anything like that, where the management would probably not let these—these fellows would have the impression the management didn't want them to do it.

Here, in this committee, they just let everything down because of their peculiar membership in this one North American family and that gives a comparison of the problems; it gives an insight to the problems; it gives information that I don't believe you could get in any other way.

8130

Q. Does any such intimate relationship exist between non-affiliated companies so far as you know? A. I know of no such relation except the big general trade organizations like Edison Institute Committees and things like that where everybody that is associated with business comes into it, but there is no sub-grouping of committees—

Q. (Interposing) I mean, does this intimate inter-family relationship exist in the large trade organizations? A. Not that I know of. Not at all. I tried to say that you go to that and it is a much more formal participation. This is an intimate personal participation.

—3,416—

William McClellan—By Respondents—Direct

8131

Q. For example, did the Potomac Company have any intimate contact with the company in Baltimore? A. Hardly any. Even to this time it is surprising how little we ever had in common.

Q. Well, what is the essential element in this relationship? A. Well, I think the essential element in the relationship is the—call it what you please—the compelling urge because members of a family are in general financial control of the companies, there is an intimate relation between them, they are expected to do it because of this relationship at the top.

8132

I don't think today that if it weren't for the relationship that binds Missouri and Wisconsin in the same system, I don't believe these things will persist.

I think, if they were even entirely separate, why, I believe, the committee work would stop. I think there would be some earnest souls try to keep it up for its value, but I think the inherent binding force would be gone.

Mr. Odell: May I get Mr. Browning's question that led to that answer?

8133

(Whereupon, the question was read by the reporter.)

By Mr. Browning:

Q. Doctor, are you aware of any competitive feeling between the various subsidiaries of The North American system? A. Oh, yes; oh, yes. Of course, there is a very intense competitive feeling. It shows itself in lots of ways. When

—3,417—

8134

William McClellan—By Respondents—Direct

these reports come out on unit costs of various kinds, whether it would be per kilowatt hour generated or whether it would be cost of billing, which is furnished the accounting department, whatever it refers to, there is a great racket and fuss and feathers.

My men will come into my own office and say, "Look at this." They watch the relative costs that come in. I don't believe they are doing it sometimes. I say, "Well, maybe they are. I don't believe they have got all their costs in."

8135

In other words, there is evidence to me that there is lots of competitive stuff and they don't do it with other people. It is just our own companies.

Of course, they don't get it in Chicago, so easily. They don't get it in Cincinnati because they can't see it as easily and they don't know how the things are kept, but nevertheless, there is intense—one man prides himself on the most efficient powerhouse in the world.

8136

The other fellow will say, "That doesn't count, it is the powerhouse that makes the lowest cost per kilowatt hour. Ours is cheaper." There is a lot of intense competition. They don't like it if the other fellow shows them up.

Q. By "the other fellow" you mean the fellow in the family? A. Yes, that is all we get unless for some reason

—3,418—

they ask for it. Then they wouldn't get it the same way.

Q. Doctor, through the years you have had, according to your testimony, rather constant contact with the executives of The North American Company, and particularly during the period when you have been an executive of a subsidiary operating company. Have these contacts been of

value to you as an executive of the operating company?

A. They have, and so much so that I wondered why they weren't made more frequently because, when we did have them, they were found to be very, very valuable and I could show you some correspondence that contacts occurred sometimes through the years of some body. I would write to Milwaukee—

Q. (Interposing) I am talking about your contacts with The North American officials. A. North American officials? I beg your pardon. I was thinking of contacts with some of the others. That is all wrong. With North American officials there is no question of that. Mr. Fogarty, on everything that has to do with financial matters and, as a matter of fact, having been traveling auditor ever since he was a kid with The North American system, all he knew about general matters of that sort was extremely valuable. The vice president, Mr. —

Q. (Interposing) Freeman. A. (Continuing) —Freeman, of course, we carried problem after problem to him.

Advice giving, not orders, but just advice was of great value.

When Mr. Doolittle was the vice president on engineering matters, of course, he had no big staff or anything like that to solve the problems for you, but it was tremendously valuable to talk to that vice president and then the king of them all, in my opinion, was Mr. Dame, when he was living, who fought, bled and died in every phase of public utility life. He was of great help.

When there was talk of the North American Company getting out of Washington and I was still here as president.

8146

Colloquy

Mr. Browning: That is all.

(Discussion off the record.)

The Examiner: We will now recess until 2:00 o'clock tomorrow.

(Whereupon, at 5:40 o'clock p. m., the hearing adjourned until 2:00 o'clock p. m., Thursday, November 14, 1940.)

8147

—3,422—

8148

BEFORE THE

Securities and Exchange Commission

Docket No. 59-10

IN THE MATTER

of

THE NORTH AMERICAN COMPANY, *et al.*

Hearing Room 1103,
Securities and Exchange Commis-
sion Bldg.,
Washington, D. C.,
Thursday, November 14, 1940.

Met, pursuant to adjournment, at 2:00 o'clock p.m.

Before: W. W. SWIFT, *Trial Examiner.*

Appearances:

HERMAN ODELL, Attorney on behalf of the Securities and
Exchange Commission.

8152

Colloquy

PROCEEDINGS

The Examiner: The hearing will come to order.

Mr. Odell: Mr. Examiner, counsel for Respondents and I have agreed to defer the cross examination of Dr. McClellan until Monday morning at 10:00 o'clock.

A continuance of the hearing until that time will also be acceptable to us.

I, therefore, move that this hearing be continued until
8153 Monday morning at 10:00 o'clock.

The Examiner: Very well, the motion is granted and the hearing is continued until next Monday morning at 10:00 a.m. That is November 18.

(Whereupon, at 2:05 o'clock p.m. the hearing was adjourned until 10:00 o'clock a.m., Monday, November 18, 1940.)

—3,424—

8154

BEFORE THE

Securities and Exchange Commission

Docket No. 59-10

IN THE MATTER

of

THE NORTH AMERICAN COMPANY, *et al.*

Hearing Room 1101,
Securities and Exchange Commis-
sion Bldg.,
Washington, D. C.,
Monday, November 18, 1940.

Met, pursuant to adjournment, at 10:00 o'clock a.m.Before: W. W. SWIFT, *Trial Examiner.*

Appearances:

S. PEARCE BROWNING, JR., and CHARLES S. HAMILTON, JR.,
of Sullivan & Cromwell, 48 Wall Street, New York City.RALPH C. BINFORD, and HERMAN ODELL, Attorneys for the
Securities and Exchange Commission.

8170

William McClellan—By Respondents—Cross

value. I think that is quite true. We did a lot of other

—3,430—

industrial work. It was all construction work with a relatively small amount of reporting.

Q. You stated that sometime during this period, you worked for the New York Commission in a matter involving the New York Edison Company? A. Yes.

8171

Q. When was that? A. To the best of my recollection, it is somewhere around, it might be the latter part of '28. It was toward the end of this period before we sold out to Stone and Webster.

8172

Q. What was the nature of that work that you did before the New York Commission in connection with New York Edison Company? A. Well, it was in connection with a rate case, valuation, examination of their operating expenses as to whether or not they were higher than they ought to be, depreciation and non-used and useful property, all of those things that go with a pretty thorough examination of a company's property and operations in connection with a rate case.

Q. You made a valuation of their property? A. Not the usual valuation, not the detailed inventory of everything that they had in a valuation but an examination of the testimony that had been put in by others at which I arrived at a figure which I said represented the valuation. I did not

—3,431—

make, as I had in many other cases, an extended inventory of everything they had but I did submit a valuation.

Q. Who hired you to do this work? A. The Chairman, of course. My memory fails me as to the name but it was

William McClellan—By Respondents—Cross

8173

the chairman of the Commission in New York City, and I do not think at that time the Commission had been changed.

Q. My question was directed more to whether the company hired you to do this work or the Commission? A. No, the Commission hired me. I was working for the Commission.

Q. And who paid your fees in connection with that? A. The Commission.

Q. How long did that work continue? A. Maybe a year. It was, I should say, a year. Roughly, that would be the time, about a year.

8174

Q. Were you in charge of that particular case, having a number of people working under you? A. Yes, I had a number working for me and, of course, I personally put in all of the testimony in regard to it and handled that case personally.

Q. During this period, were you also working with your private engineering firm? A. Yes.

Q. In other words, you were working both with the Commission at that time and taking up your duties in your private engineering firm? A. Absolutely, yes. It was just a case that really the firm had, although I had agreed to do it personally.

—3,432—

8175

Q. I believe you stated that sometime in 1929, your firm was assumed by Stone and Webster and, thereafter you were employed by them until sometime in 1933, is that correct? A. That is correct.

Q. During the period from 1929 to 1933, were you employed by any state commissions? A. No.

8176

William McClellan—By Respondents—Cross

Q. And you were not a member of any state commission?

A. No.

Q. Then I believe you stated that from 1933 to 1939, you were with the Potomac Electric Power Company? A. That is right.

Q. And from May, 1939 to the present time, you have been with the Union Electric Company of Missouri? A. That is right.

8177

Q. During this period from 1933 to the present time, were you a member of any state utility commission? A. No.

Q. Or employed by any state utility commission? A. No, nor have I appeared before any in this period except as an officer of my company.

—3,433—

Q. Considering your career, as a whole, there were only two occasions, once in the period from 1911 to 1913, and again sometime in 1928, when you worked on this New York Edison case that you were employed by the state commissions, is that right? A. Yes, I think that by state commissions, that is all I remember.

8178

The Examiner: Will you read the question and answer, please?

(Whereupon, the last question and answer were read by the reporter.)

By Mr. Odell:

Q. Then, Doctor, based on your experience as an employee of the New York state commission on these two occasions, you were able to testify, as you have, that size

does not impair the effectiveness of regulation by state commissions, is that correct? A. No, that is not my testimony. My testimony is that is the fact but that is not based on just my experience with those commissions. That is not the sole basis of my testimony.

Q. What are the other bases for your conclusions there? A. Wandering around through the country, appearing before many commissions, as I have; going intimately into the affairs of a large number of companies and seeing how they were organized and see how they did their work and doing that all over the country brought me to that conclusion, not merely working for these commissions. You see—

8180

—3,434—

Q. (interposing) Then, Doctor— A. (continuing) Let me finish my answer, you see when a man is employed by a corporation to adjust its rates or help with a valuation or something, he gets a very intimate knowledge of whether they are efficient or not and it is all of those things that bring me to the conclusion.

Q. Then your conclusion was based on your personal experience on two occasions when you were employed with the New York commission, and secondly, on your observations when you were with private engineering firms doing work for state commissions? A. And doing work for corporations which gives me an intimate knowledge of whether they are good or bad.

8181

Q. Do you mind clarifying "good or bad"? To whom are you referring? A. When you get into any corporation to look at its property, value it, look at its rate structure, look at how it is doing its business and how it is organized, you

8182

William McClellan—By Respondents—Cross

find out whether they are on their toes to do business and whether they have got good organization to accomplish it and have good public relations or whether they are sloppy, to use a slang term, or inferior. You get all of that knowledge seeing how the inside works.

Q. Doctor, have you also kept yourself informed on the problem of size as it bears on the effective regulation by

—3,435—

8183 state commissions by general reading on the subject? A. Yes, of course, I have. To answer your question, general reading and not only general reading but also observation.

Q. And you have kept yourself abreast of information on this question by doing such reading and by your observation?

A. Yes, that is true.

Q. So that, would you say, the conclusions that you have given us are based partly on what you have read on the subject as well as what you have seen, as well as your personal experiences with these companies? A. Yes—the question refers now to what point, what is it?

8184

Mr. Odell: Will you read the question?

(Whereupon, the last question was read by the reporter.)

The Witness: What subject, what point? My conclusions on what?

By Mr. Odell:

Q. Your conclusion that size does not impair effective regulation of public utility companies by state commissions?

A. Then that is quite true.

William McClellan—By Respondents—Cross

8185

Q. Are you familiar with the annual reports of the Public Service Commission of New York? A. Not intimately familiar with them. I have not operated in New York. I have had no reason to pay particular attention to those. I

—3,436—

have been very busy with other things. Since I left them, I have not been intimately acquainted with those reports at all. The best I can say is, if some notable case came up, I might look at that for its general effect but I am not familiar with them, no.

8186

Q. In your reading and study of this question of size as it bears on the effective regulation by state commissions, did you consider the following statement found in the 1937 Annual Report of the Public Service Commission of New York and I am quoting from Volume I of the Report of the Public Service Commission of New York for the year 1937,—

Mr. Browning: May I interpose there—I suggest that he first ask the witness if he read the 1937 report.

Mr. Odell: I believe the witness stated he was not familiar or has not seen these annual reports of the Public Service Commission.

8187

The Witness: I did not say that. I said I was not familiar with them.

By Mr. Odell:

Q. Have you read the 1937 annual report of the Public Service Commission of New York? A. No.

Q. In view of that fact, would you care to contradict the following statements appearing in that report and I quote from Page 39 of Volume I:

—3,437—

8188

William McClellan—By Respondents—Cross

The chapter is headed, "Utility Mergers and Consolidations".

"When it became apparent to the Commission that a major unification movement was under way and that a definite statement of policy should be announced, so that all companies contemplating applications to the Commission might know what the Commission would require and what it was aiming to accomplish, a memorandum was prepared and finally adopted on November 10, 1936 outlining a plan to which all mergers and consolidations would be required to conform. This statement was as follows:

"There have been submitted to the Commission, formally and informally, several plans for the unification of several companies, each of which is now being operated separately. The most important plans relate to companies in the Consolidated case (now called the Consolidated Edison), the Niagara Hudson and the Associated Systems.

"The purposes of these plans are in general to eliminate intermediate companies, to simplify their corporate structures, to enlarge the operating units, to reduce the cost of service and to reduce the taxes which are being levied upon intercorporate transactions within a single system due to involved corporate relationships.

"Generally, these purposes are to be commended and there long has been need for corporate simplification in many systems, but the most important question is whether the companies or systems resulting therefrom will facilitate or hinder effective regulation. Mere size is a handicap to regulation

8190

A small company can be investigated and even its property

William McClellan—By Respondents—Cross

valued in a short time; but to cover a company which serves a large part of the state or has property running into hundreds of millions of dollars, several years and large sums of money are now required because of its size, the area to be covered, the variety of local conditions and the lack of proper records, such as inventories or continuing property records and original cost data. * * * The time and expense required to investigate and value any company or system could be greatly reduced if continuing property records were kept up-to-date, if the books of account showed the original cost, and if the depreciation reserves represented even approximately the amount of depreciation actually existing in the property and if it were not necessary to estimate reproduction costs."

That is all I am going to quote from this statement, Doctor, and I think I read slowly and you heard me.

All I want to ask is, do you want to contradict that statement?

Mr. Browning: Just a minute. Let us examine that a minute.

(The volume was handed to counsel.)

By Mr. Odell:

Q. All I want to know is whether you want to contradict that statement. I do not care to have you give me any explanation at this time.

The Examiner: Off the record.

(Discussion off the record.)

8194

*William McClellan—By Respondents—Cross**By Mr. Odell:*

Q. Do you care to contradict the following statement appearing in the excerpt which I have just read, "Mere size is a handicap to regulation."? A. I certainly deny that. Mere size is not a handicap to regulation.

Q. Doctor, during your incumbency as president of the Union Electric Company, have you tried to sell any securities in St. Louis? A. No, not a bit.

8195

Q. And during your incumbency, has the situation arisen where the company had to sell any securities in St. Louis or otherwise? A. Nowhere. It has been a constant problem with us, knowing we must sell securities, but no situation has arisen where we have gone out to sell any. I beg your pardon, let me add to that, except in one case where we sold \$1,100,000 of common stock of the gas company direct to the North American Company.

Q. Then Doctor, what is the basis for your conclusion as stated on page 3,380 of the record and here is your statement:

8196

"It is almost impossible for us—it would be impossible for us in St. Louis to have a complete financing department

—3,440—

because, in the first place, we can't get all the money in St. Louis.

"Now, that is, of course, a fact that can't be denied."

What is your basis for this statement, "in the first place, we can't get all the money in St. Louis." and your second statement, "Now, that is, of course, a fact that can't be denied."? A. The basis for that statement is, first of all, my

experience in other communities like St. Louis, such as Washington, and general experience, many many talks with bankers. Even in St. Louis, bankers come into my office saying, "Of course, we could not put all of the securities here. We would have to go outside for them", and my general knowledge. To my knowledge, it never has happened with any company of our magnitude any place in the country.

Q. Have you ever faced the bankers in St. Louis with the problem of distributing any securities for you in the past year and a half? A. No.

8198

Q. I see. A. I have talked to them a great deal, though. They have been in to talk to me about doing it.

Q. Does the Union Electric contemplate any financing? A. Yes, it has got to finance, a great deal of financing. It faces a tremendous problem of financing.

—3,441—

Q. In the immediate future? A. In the immediate future. We are spending money hand-over-fist now. In fact, I think very early next spring we will have to get money somewhere.

Q. Doctor, have you been faced with the problem of finding a lawyer in St. Louis who could write a public utility mortgage? A. No.

8199

Q. What is the basis for your statement appearing on page 3,381 of the record which is as follows: "there is hardly a lawyer in St. Louis writes a mortgage in twenty years, especially a public utility mortgage". A. Well, that perhaps is a little bit too conversational and ought to be corrected. I ought to have limited that statement to public utility mortgages and not a general mortgage on a man's house or something like that.

8200

William McClellan—By Respondents—Cross

Q. I think the statement is limited that way. I want to know whether you have been faced with the problem of finding a lawyer in St. Louis who could write a public utility mortgage for you? A. No, but I know the public utility mortgages more or less that have been written in St. Louis and I know how it is always done, almost always done, and consequently, I think I am safe in making that statement.

Q. You say you have studied public utility company mort-

—3,442—

8201

gages? A. No. There are only two or three public utilities in St. Louis and I know they have mortgages and, therefore, inasmuch as there is no public utility mortgages except ours in St. Louis that really amount to anything of that big a nature, I am safe in saying there is hardly a lawyer who could do it. It isn't as if there were 100 or 200 of these public utility mortgages made in St. Louis and, therefore, you might find lawyers who could do it, but there is very little of that kind of business in St. Louis or any other city, for that matter. Incidentally, that does not challenge the St. Louis lawyer except he does not have a chance to get the ex-

8202

perience.

Q. Have you consulted with other people on this question of finding a lawyer in St. Louis who could write a public utility mortgage? A. No, I haven't had to write a mortgage so I haven't had to consult anybody about it.

Q. Your conclusions, then, on that point are based on the fact that there are few public utility companies in St. Louis?

A. Few mortgages. It isn't often that mortgages are written.

Q. Have all of those mortgages that have been written been written by lawyers other than St. Louis lawyers? A.

William McClellan—By Respondents—Cross

8203

They probably have all been written just like our own, St. —3,443—

Louis lawyers doing what they could in conjunction with specialists in New York or somewhere else. That is the way those things are usually handled, local lawyers do what they can on it and supply what they can but they work in conjunction with specialists from large places.

Q. Have you participated in past financing operations in St. Louis? A. No.

Q. Where mortgages were written? A. No.

8204

Q. Do you know whether those mortgages which have been written have been written by St. Louis lawyers or lawyers from other parts of the country? A. No, I do not know. That was an expression of opinion based on my rather broad general experience in those things but not from direct experience in St. Louis.

Q. What are the functions of the Union Electric Company of Missouri and its subsidiaries other than financing which you state cannot be performed in St. Louis? A. What are the functions?

8205

Q. Yes, other than financing which cannot be performed in St. Louis. A. Well, the principal other function, of course, as I testified, we have got to go outside of St. Louis to buy a lot of things, a great deal of our equipment and things of that sort. We must, from time to time, go outside of St.

—3,445—

Louis to get personnel. Sometimes we cannot find anybody adequately trained in St. Louis. That is the only time we do go out, when we must go out and beyond that, we have the very large question of going outside of St. Louis for

8206

William McClellan--By Respondents--Cross

certain help such as engineering firms, law firms, to do specialized tasks that we cannot find anybody to do there or after trying, think that we can't find anybody in St. Louis with the requisite experience to do it and then, above all that, comes the great question of policy, corporate decisions, in general, in which, if we go outside of St. Louis we get prospective on those we get experience in handling lots of other properties, and we get, and especially proper, those who have the same sort of interest in the St. Louis problem

8207 that the local managers have.

A great many questions come up in regard to just what shall be done in the way of public policy, the question of rates, the question of types of equipment to put in. These committees, for example, are outside of St. Louis. We get help from those and I personally have had experience with those committees and know how valuable they are and so—

Q. (interposing) I am referring more, Doctor, to the operating functions of Union Electric Company and its subsidiaries. A. The operating functions?

8208

Q. Yes. A. That is, to a large extent, localized in St.

—3,446—

Louis. The mere operating functions, putting the kilowatt hours on the wire.

Q. I see. A. Except for these other things I have talked about.

Q. Since you have been president of Union Electric Company of St. Louis, have there been instances where you had to go to engineering firms outside the city of St. Louis for advice and assistance? A. Yes. We have a man, for

William McClellan—By Respondents—Cross

8209

example, I can't think of his name at the moment, whom we employ to look into our rate structure. We have brought men from some of the other companies of the North American system. We have had a man looking into our customer information service. We have Stone and Webster, of course, of New York City and Boston building our power house and working on the designs or specifications, things of that sort.

Q. Is that on the additions to your Venice plant? A. Yes. We had trouble on one of our transmission lines to Bagnell. The foundations of the poles were giving way and we brought Stone and Webster in to help us. My own men came to me in that case and said, "We could do this but we do not feel we have had all of the experience and we think we had better get somebody like Stone and Webster who has had general experience to tell us how to fix these things. If we do it it might be more expensive" and, therefore, in response to their

8210

request, I brought in Stone and Webster.

Q. Would you say that presented an acute problem which required the assistance of outside engineering firms? A. I would say that is an acute problem that made the assistance advisable. I am not saying we could not have fixed that, that things would have gone to pot and fallen down, but it was advisable in the minds of the men who were there though not required absolutely.

8211

Q. Have there been any other instances of the Union and its subsidiaries where you have called on outside engineering firms for assistance?

Mr. Browning: By "outside engineering firms", you mean outside of North American?

—3,447—

8212

William McClellan—By Respondents—Cross

Mr. Odell: And outside of St. Louis.

Mr. Browning: In other words, firms like Stone and Webster?

Mr. Odell: Yes.

The Witness: You mean firms and individuals too, I presume?

Mr. Odell: Yes.

The Witness: Mr. Campion is working for the Potomac Company.

8213

By Mr. Odell:

Q. Just a moment. I am asking for persons not associated with the North American system. A. No, I can't

—3,448—

recall any further instances than those that I have mentioned, if they are outside of the North American system, but when these men come from the North American system, they do not come as gifts. We employ them.

Q. Will you identify the firm of Stone and Webster?

8214

A. Stone and Webster Engineering Corporation is its corporate title.

Q. It is not affiliated with the North American system other than its work with the North American system?

Mr. Browning: I object to the word "affiliated".

The Witness: I can't speak for the affiliation. I do not know anything about affiliation but I know they are an outside independent firm that we employ that way. I do not know whether they are affiliated or not.

William McClellan—By Respondents—Cross

By Mr. Odell:

Q. I believe you stated, Doctor, that at one time you were associated with Cleveland Electric Illuminating Company, Potomac Electric Power Company and now with the Union Electric Company of Missouri. During the times that you were associated with these various companies, did you ever try to arrange for any financing without the aid of the North American Company? A. No, never. It was an avowed policy on our part not to do it. We made use of the North American facilities, of course, in financing.

Q. During the course of your career, have you ever par-

—3,449—

ticipated in financing operations without the aid of North American Company? A. Well, certainly not to amount to anything. I cannot think now whether I did anything with Mr. Huntley of Buffalo General Electric Company. My memory does not serve me there but certainly nothing of any importance.

Q. Have you ever made a study or investigation of the facilities and the advice available to you in the event that you did not desire to call upon North American Company for their assistance in financial operations? A. Well, I faced that in Cleveland, I faced that problem in Cleveland when Mr. Lindsay, the president of the company, and I came down to New York to see National City, Dillon, Read, Spencer Trask, in regard to financing. I faced it in the first Potomac issue which was worked out and required by the Public Utilities Commission to be offered to bankers in competition with each other.

8218

William McClellan—By Respondents—Cross

I faced it in the second issue that I handled with the Potomac Company and those are the three direct ones.

Now, I have seen it by what might be called collateral experience in North American, other people talking. There have been hundreds of conversations about it.

Mr. Odell: May I interrupt and ask that the question be read again to Dr. McClellan?

The Examiner: Yes. Read the question.

—3,450—

8219

(Whereupon, the last question was read by the reporter.)

The Witness: Yes, certainly.

By Mr. Odell:

Q. You made a study of the facilities available to you?

A. Yes.

Q. What did your study consist of? A. Conversations with bankers, conversations with people that are selling securities and the fundamental fact is that they are interested in their own interests and not in mine and, therefore, would never be available to me for the same kind of help that the North American would be.

We do not take the information from salesmen of pumps, say, without finding out something about it because we know the pump man is going to talk his pump and going to look after his own interest and if we want advice, we have got to have somebody looking after our interests.

Q. Well, you say you have made a study. What was the purpose of it? A. It has been a continual study. If you mean a special study, there is no way of making a study.

8220

William McClellan—By Respondents—Cross

8221

It is a continual study. It is a fundamental fact that you do not go to people who have other interests than yours.

Q. Have you ever called upon investment banking firms for advice and assistance in connection with a financing operation? Certainly.

—3,451—

Q. Have you done so without first discussing this matter with the officials of North American Company? A. No.

Q. Without first consulting with the officials of the North American Company, have you ever discussed with investment bankers, the type of security you should offer, the interest rate or the dividend rate? A. Not a directed discussion toward the issue of any security, but many discussions by the bankers coming in to see me and suggesting that we could do certain things and all that sort of thing but no directed discussion with a banker toward the definite issuing of certain securities.

In other words, when the problem comes up to issue the securities, we do not go to bankers and talk about it until we have discussed the matter with the North American Company.

8222

Q. In other words, without first consulting the North American Company, you have never gone to an investment banker and said, "Look here, we need some more money here and I want you to give me your ideas as to what kind of security we should offer"? A. No, not without first discussion with North American.

8223

Q. Have you ever done it after consulting with the North American Company? A. Yes. I have sounded out some times local bankers and it is pretty difficult to disassociate the

—3,452—

8224

William McClellan—By Respondents—Cross

two, the North American from the other because the North American being in it from the beginning, I might go to somebody and talk, yes, but I cannot remember exact cases now. I know that I have, particularly one or two in Washington.

Q. Have you ever made a study of the financing operations of utility companies who are not part of a holding company system? A. No, I can't say that I have made any investigation of them, except as to the results of the financing when it was done but not as to methods.

8225

Q. You never made any study as to the methods? A. No.

Q. But you say you made a study of the results? A. I observed them and see that they come out with a certain kind of security, certain features in connection with it, and compare that with our own. That is what I meant by results.

Q. Have you ever made a study to determine whether, in those particular cases, looking at the results of these utility companies, whether the security that they issued was the best type of security for the company? A. No.

8226

Q. Did you ever study these results to determine whether or not the utility company was paying a higher interest or dividend rate than was required under the circumstances?

—3,453—

A. No, it would be very difficult from the outside to determine that any way without knowing a great many details.

Q. Are you familiar with the Southern California Edison Company? A. Oh, somewhat, not in detail at all. I built a power house out in San Francisco and I got acquainted in a general way but I really do not know.

Q. Do you know whether that company is a subsidiary of a holding company? A. I think not, if my memory serves me.

William McClellan—By Respondents—Cross

8227

Q. Are you familiar with their recent financing operations? A. No.

Q. Have you seen any reports of their recent financing operations? A. No, I do not recall any. As I say, I can't remember. I know there was something advertised in the paper and things like that but that is all. I do not know when it was they did it even.

Q. In 1935, Southern California Edison Company issued and sold \$108,000,000 worth of bonds with a 3-3/4 interest rate. Are you familiar with that particular operation? A. No, indeed.

8228

Q. In October, 1940, the Southern California Edison Company issued and sold \$108,000,000 of bonds to refund the bonds that had been issued in 1935—

—3,454—

Mr. Browning: (Interposing) I move to strike the statement.

Mr. Odell: Do you mind if I finish my question?

Mr. Browning: No.

Mr. Odell: (continuing) at a price to yield 2-7/8 per cent. Are you familiar with that operation?

8229

The Examiner: Just a minute. Read that whole question to me, please.

(Whereupon, the pending question was read by the reporter.)

Mr. Browning: I move to strike both of the last two questions on the ground that they are mere statements of fact which do not appear in the record.

8230

Colloquy

Mr. Odell: I think that both of those statements are a matter of public record and I am merely asking the witness whether or not he is familiar with those statements.

8231

Mr. Browning: I have no objection to counsel asking the witness if he is familiar with the 1935 and 1940 financing operations of Southern California Edison Company and developing any information which the witness may have. What I object to is making these statements of fact for the record by counsel.

Accordingly, I renew my motion to strike.

The Examiner: Mr. Odell, is the suggestion of counsel acceptable to you? Is that the purpose of your inquiry along this line as to whether the witness is familiar with those two issues?

—3,455—

Mr. Odell: Well, he said that he is familiar with them to the extent to what he has read or seen in newspapers on that.

8232

The Witness: I did not say that.

Mr. Odell: I may have misunderstood but I think the record will show he stated something similar to that.

The Witness: If it does, it is wrong.

Mr. Browning: My suggestion is that the two questions and answers be stricken and that counsel pursue the line of what does the witness know about any financing operation that Southern California Edison Company may have carried on.

Mr. Odell: I think he has already testified to that and if the reporter will go back and read the record, it will so show.

The Examiner: Off the record.

(Discussion off the record.)

Mr. Browning: I move to strike.

Mr. Odell: I think the way my question is worded, I am asking whether he is familiar with those two particular financial operations.

8234

Mr. Browning: I have no objection to that question but I renew my motion to strike the last two questions.

The Examiner: I will grant the motion but you may ask him whether he is familiar with those two issues.

Mr. Browning: Are we striking that physically
from the record?

—3,456—

The Examiner: No, the record will stand as it is.

Mr. Odell: Off the record.

8235

(Discussion off the record.)

Mr. Odell: Could we have a short recess?

The Examiner: Yes.

(Whereupon, a short recess was had after which the hearing was resumed.)

The Examiner: Are you ready to resume?

Mr. Odell: Yes.

8236

*William McClellan—By Respondents—Cross**By Mr. Odell:*

Q. Dr. McClellan, as an engineer, are you in favor of the dissemination of information on matters constituting contributions to the art? A. Very much so.

Q. Would you say that the engineering profession, as a whole, is in favor of dissemination of such information? A. I would say that it was, as a whole, in favor of that except, of course, where private interests are involved, such as a man who is developing a process which he expects to patent, for example. He is not telling ~~the world~~ about it and thing of that sort.

Q. With the exception of an instance like that? A. Not only that instance but you might accumulate instances, I do not know. Sometimes when you are performing an experi-

—3,457—

ment and do not expect to patent it, you do not care to tell much about the progress of your developments until you are satisfied yourself of it even though there is no patent involved. You would not let outsiders know about it until you are pretty sure that the experiment, so to speak, was finished. You would not give them progress reports of the experiment, for example. You would not care to do that.

In fact, there have been some very important scientific men who have waited a good many years to be sure what they would say before they would publish it and the same way with companies. They might be carrying on experiments and even thought they might expect to tell the public about them later, they would not tell about them in the meantime.

Q. Would you say in the last example you gave, where the engineer for the company conducting those experiments

William McClellan—By Respondents—Cross

8239

knew that an engineer in another company was faced with similar problems, would you say that it would be uncommon, in the engineering profession, for those two engineers, faced with substantially the same problem, to consult with each other? A. No, I would say, from my own experience, I would say that he would hardly ever refuse to consult with the other engineer. It is a question of how far he would consult.

Q. But he certainly would not keep silent on the question if he knew another engineer was faced with substantially the same problem and was experimenting with that problem?

8240

—3,458—

A. He might tell the whole story. He would not go into the details. He might speak generally, for reasons of his own, but fundamentally, the attitude is to exchange information but not necessarily or completely or wholly or to tell the whole story. I think that same thing applies to other professions too. Even lawyers, I think, would exchange generalities, but I am not sure they would tell everything respecting their cases. Some engineers are the same way.

8241

Q. Would you say, Dr. McClellan, that in the course of your association with North American Company, that you have become familiar with the operating heads, at least, of the Cleveland Electric Illuminating Company, the Wisconsin-Michigan group of companies and the Potomac Electric Power Company? A. Yes, I would say so. I would go even further and say I have gotten acquainted with all of the North American upper men.

Q. Would that also include the important engineers on the staffs of each of those companies? A. To a less degree.

8242

William McClellan—By Respondents—Cross

In my later years since I have become an executive, not so much with those men as I did, maybe 15 or 20 years ago when I was more directly concerned with engineering.

Q. Speaking generally, you, at least, know the men who are considered to be the important engineers in each system?

A. Yes, I think that is true. I have a bad memory. I might

—3,459—

8243

not even be able to give the names in some cases, but if the names were mentioned, I would know them.

Q. Would it be inaccurate for me to say that you consider such men to be your friends? A. In the North American system?

Q. Yes. A. Why, they are undoubtedly friends, but if you mean they always act like friends, no, especially if they have criticism to make, they certainly do come at you sometimes with criticisms.

8244

Q. Isn't that a gesture typical of friendship? A. It may be but I mean they certainly do not pull their punches because of any friendship. That is what I mean, but I do really think they are friends.

Q. And I take it that you respect the ability of these men as executives and engineers? A. I certainly do and on two occasions, I have gone to them on that basis because I did respect their abilities and their opinions and the help they could give me.

Q. Would I be assuming too much if I said that that feeling was mutual? A. Well, no, I do not think you would be assuming too much. I think they regard me as their friend, if that is what you mean by mutual.

William McClellan—By Respondents—Cross

8245

Q. Assume, Doctor, that your company, Union Electric

—3,460—

Company, has solved the problem in engineering or general operation which either the Cleveland property or the Washington property is faced with. Let us assume further that these companies are not subsidiaries of the North American Company. Would you refuse to permit the members of your staff to give, say, the engineers of the Cleveland property or the engineers of the Washington property the benefit of the collective knowledge of your company on a problem that you have already solved and which one of these companies is faced with? A. Quite the contrary, not only would not refuse to give it but it is given. I mean everyone of those things, the results, when they are completed and ended is discussed in this committee and the boys know they have a free for-all position to the last—

8246

Q. (interposing) I am postulating that situation, at a time, we will say, when Cleveland Electric or Washington and the Union Electric properties are no longer subsidiaries. Assume that situation. A. Would I refuse?

8247

Q. Yes. A. No, I would not refuse ever, I do not believe, except I can't tell whether I would or would not keep it until I get to the specific case because there might be cases in which something more was involved than the information I don't know. Generally speaking, I would not refuse.

—3,461—

Q. Aside from— A. (interposing) If they came and asked for it.

Q. Aside from an exceptional situation? A. Generally speaking, if they came and asked for it, they would get it,

8248

William McClellan—By Respondents—Cross

a great deal of it. In fact, somebody might write a paper and give it all, give it to the whole world to know.

Q. And knowing the executives in the other companies, would you expect a request from you to such companies, under similar circumstances, would be treated in a similar manner? A. No, I would not expect that. In my experience, I have wanted information sometimes and I either haven't had the nerve or something like that just to ask for it. On the other hand, if I knew the man intimately, I would have less hesitancy in asking but if I was totally unacquainted, I might write a general letter suggesting that I would like to have it but I would not think I had any right to it and I know in some cases, there are companies—I cannot name individual companies—but it just comes to the back of my head that sometime I have been refused. Some men seem to want to be pretty close mouthed, I don't know why. It has not been my policy.

Q. Can you give us the details? A. I told you I couldn't. I told you it is in the back of my head I did not get the same kind of enthusiastic response from everybody.

8250

—3,462—

Q. But knowing these executives of the other companies as you do and considering your long acquaintanceship with these men, you would not expect to be summarily turned down by them, would you? A. I would not, because I have an extraordinarily wide acquaintance and I think I am luckier than some.

Q. Mr. McClellan— A. (interposing) One thing, let me say, let me add to that. May I add to it? May I add to it to explain just why I say that?

William McClellan—By Respondents—Cross

8251

The Examiner: Yes, you have that right.

The Witness: One thing is, one great difficulty we have in asking for information from other companies; there is hardly a letter we don't put in "This, of course, will not be made public and will not be used anywhere. This is for our private information."

A lot of presidents, under those circumstances, would not even trust us because some of the information we are giving them might not be put into evidence, or something like that, the way we would like to have it and they won't trust us, confidentially, that is the reason. That is one of the fundamental troubles we have, if you are not in a family or connected.

8252

By Mr. Odeil:

Q. I am referring to a situation, Doctor, where information you would receive from such other company would be the kind of information that you would use in improving

—3,463—

your own operations, it would be used in connection with a specific engineering or operating problem that you were then faced with. A. Even that isn't always clear. In all the letters I write I say, "I will not make this public. I will use it for my private use", but what I am trying to bring out is the other man won't take my statement 100 per cent and even at times, he is reluctant to give me that information in that manner.

8253

Q. I assume the other man assumed you would not use this information that would result to his detriment that, barring that, he would give you the information? A. I think

8254

William McClellan—By Respondents—Cross

so, but I am bringing out everybody could not do that. Some companies might not get it. I might and somebody else might not.

If the companies that are presently subsidiaries of the North American Company cease to be so, would you say that your friendship with the operating heads of these various companies would cease? A. No, those friendships are personal.

Q. And you believe that they would continue? A. I think 8255 they would continue without question, personal friendships with the officers of the other companies, yes, sir.

Q. Doctor, you have referred to reports on unit costs of various kinds that each company gets up. I do not think

—3,464—

that you described very many of these reports or more than one or two. Your statement on that point was as follows:

"When these reports come out on unit costs of various kinds, whether it would be per kilowatt hour generated or whether it would be cost of billing". Those are the two reports, I believe, that you referred to, unit cost per kilowatt hour and unit cost of billing. A. There are hundreds of costs; unit cost per kilowatt hour—

8256

Q. (interposing) I am referring now to the reports that are distributed to the various companies. A. Well, we all gather together, all the companies of the system, but we file first a general operating statement. It is sent to New York. We also file a detailed operating statement in far greater detail than the ordinary summarized operating statement. That is taken by statisticians and others in New York and analyzed down into reports that come to us, I think

William McClellan—By Respondents—Cross

monthly, as long as this and as high as that (indicating) with a great list of items all down the side and then here are the companies and I can tell, for example—I merely mentioned two costs of perhaps 40, 50, 60 that are in this list. I don't know whether it has been put in evidence by others or not.

Mr. Browning: I expect to offer those later.

Mr. Odell: I see.

The Witness: One of those, for instance, we find it

—3,465—

costs us X cents per bill to bill a customer, Wisconsin Y cents and Washington Z cents and so on. Now, we look at those and we wonder why, if ours is high, why it is high. If it is low, we sort of tickle ourselves and let the other fellow worry.

Now, there is a great list of those things, B. t. u.'s for the power station, B.t.u.'s per kilowatt hour; pounds of coal per kilowatt hour, a lot of other things per kilowatt hour and then a lot of things, per customer, per customer, per customer, and a great list of things, you see, for all of these companies on that sheet. It shows just what we are all doing for these several items and, of course, if we are high compared to the others, then we all get excited. That is the point I am trying to bring out and if we are low, I say, we sort of chuckle.

Q. And each of these operating companies then assemble this information that refers to their particular company, and it is sent to New York for preparation into a table showing comparative performance? A. That is right, but New

8260

William McClellan—By Respondents—Cross

York has to do some analysis on it because, for one reason or another, perhaps we group under, let's say commercial expenses, we group something that another company doesn't so New York sort of takes that out and gets an adjusted cost to try to make it really comparative. That is the point.

Q. I take it this information that is assembled by each

—3,466—

of the operating companies is assembled as much for its own information as for the purpose of distributing or sending it

8261 to New York? A. Yes, that we would do, of course, so far as that is concerned. We would want to know what our billing expense was per customer, for example, even if we did not send it to New York naturally, and then we try to scout around. I have done it with other companies but we do not get very far because we have no way of knowing how they keep their expenses and the comparisons are almost worthless, in many cases, because we cannot go into their business and find out how they do it.

Q. I take it that these reports that each of the operating companies assemble, a number of copies are made of that report so the executives within the companies may have a copy?

A. Well, we get a copy to keep—

Q. (interposing) There is more than one copy. I am referring to the records or the information that is assembled by the operating company. My question was whether there was more than one copy made? A. There are at least two copies made but, as a rule, they are so expensive to type write and copy up we do not make a huge number of copies. What we do, there may be three copies, for example, one may come to me, one to the comptroller who makes up the report

William McClellan—By Respondents—Cross

8263

and who keeps one copy in his file for record purposes, and then there is a second copy and on that there is a slip of

—3,467—

paper with 6 or 8 or 10 names and it circulates around each of those men, they look at it and check it off, so far as their work is concerned, and that is the general system. Now, there might be five copies made of some reports, I don't know. Sometimes the chief engineer wants one to keep and we will say, all right, make an extra copy. That is sort of inside the company, for mere convenience, what we call the working copies and the number we make of those may depend on circumstances. There may be one working copy, there may be five working copies in some other reports. I do not know. I know there is a difference.

8264

Q. I take it the cost and the work involved in reproducing some extra copies of such reports would not be excessive, would it? A. No, it would not be excessive, maybe, in dollars and cents, but what to do with them after you reproduce some of them, load the files up with them and have them all around, extra working copies—

Q. (interposing) Let me stop you, Dr. McClellan. Assume they were not retained in your files and you had people to whom you could send them. Would there be any great problems involved in reproducing some extra copies? A. No, it would not be huge.

8265

Q. It wouldn't be huge, you say? A. Because you can make carbon copies, if you want one, but if you want many,

—3,468—

you have to go to the expense of photostating or mimeographing and all that sort of things, but the expense multiplied by the number of things we do is a figure we are trying to

8266

William McClellan—By Respondents—Cross

cut down all the time. It isn't a joke. It isn't just nominal. It takes a lot of time, too, when you get to it and the total expense is not cheap.

8267

Q. Dr. McClellan, I believe you stated at various times in your career you were responsible for the management of the Washington properties, namely Potomac Electric Power. You were also associated with Cleveland Electric Illuminating Company in an executive capacity and, at the present time, you are president of Union Electric Company of Missouri. Have you ever been responsible for the management of two or more of these companies at the same time? A. Never for the management of more than one company at one time. At the present time, I do not want to have the record overlook anything, at the present time I am still a director so my responsibility of management ends with whatever director responsibility one has but nothing else.

Mr. Browning: Could we clarify that?

Mr. Odell: Yes.

8268

The Witness: I am a director of the Potomac Electric Company. I am a director of the W. R. & E. Company, and I am also chairman of the board of the W. R. & E. Company but my responsibility there is limited actually to presiding at board meetings

—3,469—

and nothing else.

By Mr. Odell:

Q. Have you ever been faced with the problem— A. (interposing) What problem?

William McClellan—By Respondents—Cross

8269

Q. (continuing) of managing two or more of these companies at the same time? A. Never.

Q. Dr. McClellan, when was the last time that you had written an article for publication in an engineering journal? A. I think about one year ago I made a talk on power for preparedness before the St. Louis section of the American Institute of Electrical Engineers which was afterwards assembled and printed as an article but I think that is the only one that I have written in quite a number of years.

Q. Do you recall the time you wrote an article before the one you last wrote? A. No, I can't recall when. In fact, I never wrote a great many articles. My articles were written on more general subjects, of a more general nature, than engineering. My engineering articles, of which there are a fair number, were largely, sometimes simple and sometimes elaborate, discussions of papers read before societies in which I got up and made some extended remarks on the paper that was under discussion and then, afterwards, I took the proof of it, edited it and put it in shape for publication. I was never a very elaborate writer of articles on engineer-

8270

ing subjects except I have written a great many of the kind I described. I think the last major one I wrote before that was before the N. E. M. A. organization but not on a strictly engineering subject.

8271

Q. Do you recall what the subject was then? A. No, I cannot. It had something to do with the general organization for marketing of equipment and things of that sort as between companies. That was the N. E. M. A., which is the National Electrical Manufacturers Association. I can't

8272

William McClellan—By Respondents—Cross

recall that stuff. I have had a good deal of stuff printed but not as formal articles which I sat down and wrote.

Mr. Odell: Off the record.

(Discussion off the record.)

Mr. Odell: Will you read the last answer, please?

(Whereupon, the last answer was read by the reporter.)

8273

By Mr. Odell:

Q. Have you written any articles on the question of size as it affects efficient operation? A. No, not that I can recall.

Q. Have you written any articles on the question of size as it impairs the advantages of localized management? A. No.

Q. Have you written any articles on the question of size as it impairs effective regulation by state commissions?

A. No.

8274

—3,471—

Q. Have you addressed any engineering groups on these questions that I have just enumerated? A. No. The fact of the matter is, it never occurred to me to discuss it. It never has been in my mind a moot question, that there was any room for discussion.

Q. You say you have never discussed these questions before? A. Not publicly. I have never written papers on them, that is what you said, or before engineering organizations.

William McClellan—By Respondents—Cross

8275

Q. Yes. Have you ever discussed them in private? I mean outside of things that have been published?

Mr. Browning: Will you read that question?

(Whereupon, the pending question was read by the reporter.)

The Witness: No, I do not think there has been much discussion there even. As I say, I have never met anybody to whom it was a moot question needing any discussion.

8276

By Mr. Odell:

Q. Have you ever made a canvass of engineers, operating executives and other authorities on these questions? A. No, I never thought of it.

Q. When did you start to collect your thought on these questions? A. Well, I suppose—yes, I started to notice them and collect my thoughts on them, I think about 1912 or '13 after I had been a year with the New York Commission which was my first big experience with handling all these

8277

—3,472—

matters with a great many companies, large and small, in New York state.

Q. May I interrupt for just a moment. What was the complexion of utility companies?

Mr. Browning: When?

By Mr. Odell:

Q. What was the complexion of utility companies in the state of New York? A. I do not know what that means.

8278

William McClellan—By Respondents—Cross

Q. Just a moment, at the time you were employed by the New York state commission in the period from 1911 to 1913?

A. You will have to define "complexion".

Q. Complexion as to size. A. Size of a utility company?

Q. Will you compare the size of operating utility companies in New York in the period from 1911 to 1913 to the size of utility companies in New York in the period from, we will say, 1930 to 1940? Are there as many companies presently operating as operated then? A. Well, now, I cannot answer that question without the record before me. In the second place, there may be as many companies operating but I think probably more of them are under holding companies than there were when I was there, but when it comes to size of companies and relative size, which gives me the same kind of an answer, I think the relative size may not

8279

—3,473—

have changed so much. Except for the holding company feature and that I cannot speak by the book, I would have to have the record in front of me.

8280

Q. Do you recall the first occasion when you were called upon to express an opinion as to size affecting the effectiveness of regulation by state utility commissions, size as it affects efficient operation and size as it affects localized management. Do you recall the first time when you were called upon to give an opinion upon that question? A. Why, the first time that the question was ever raised at all was when I read the present holding company bill and I am frank to say I never could understand how it got into the bill that size had anything to do with it and to express an opinion, it was in connection with that bill and when the Union Com-

William McClellan—By Respondents—Cross

pany had to make its defense against that bill, that was the first time I ever knew the question was raised. I never would have put it in the bill. I would have said, "too small to regulate", "too small" instead of "too large".

The fact of the matter is—

Q. (interposing) Just a minute. How much time did you give to these general questions before you appeared here to testify? A. Before I appeared here to testify?

Q. Yes. A. As I say, I have been thinking a great deal about it ever since those phrases were used in the Holding

—3,474—

Company Bill so I have been thinking about it sometimes in a desultory fashion, sometimes more directly ever since it was in the bill and this holding company question came up. Up to that time, I had never heard the question raised.

Mr. Odell: May we have a two minute recess?

The Examiner: All right.

(Whereupon, a short recess was taken after which the hearing was resumed.)

By Mr. Odell:

Q. Dr. McClellan, are you familiar with Mr. Woodbridge's experience in matters of financing? A. Not with the details of what he personally did or anything of that kind except in a very general way. I know the general part he played but I cannot tell just exactly every detail.

Q. Do you know whether he has assisted as to legal matters and financial operations of the Union Electric Company? A. Yes, I know that.

8284

William McClellan—By Respondents—Cross

Q. Then you would say that Mr. Woodbridge is familiar to some extent, at least, with the legal aspects of the financial affairs of the Union Electric Company? A. Oh, yes.

Q. Do you know whether he participated again as to the legal aspects of the distribution of any security issues by

—3,475—

Union Electric Company? A. Well now, I cannot tell—

Mr. Browning: (interposing) I would like—

8285

Mr. Odell: (interposing) I asked if he knew. He can say yes or no.

The Witness: I think I know, yes, in a very general way.

Mr. Browning: I do not know what the legal aspect of the distribution of securities is. I would suggest a clarification.

The Witness: I can explain what I meant.

By Mr. Odell:

Q. I will explain it; contract with the underwriters, qualification with the S. E. C., qualification with the state regulatory bodies A. Exactly, quite. That is what I meant and also, as I remember, the last distribution had some very short-time chances for exchange. There was a legal aspect to that. I know he was interested in that and all of these things you have mentioned, I know, of course, that is the part he takes care of.

Q. Dr. McClellan, do you know whether Mr. Woodbridge participated in the conferences where the question of the type of security, interest rates, was discussed? A. I cannot tell

you whether he participated or not, but I do know that he confesses that not to be in his field. I know that. That is a banking field and whether a security should be sold for a certain price or rates or things of that sort, he regards that

—3,476—

as banking, I know that. He has told me that not so long ago.

Mr. Odell: That is all for my cross examination.

Q. You were asked in some detail about your actual employment by state regulatory commissions and you testified with regard to such employment. In addition to such employment, is it true that you appeared a great many times before state regulatory commissions over a very considerable period of time? A. Yes.

Q. And that you kept in contact with state regulatory commissions, their methods of operation and views? A. Well, during that time when I was appearing all those times that I appeared before these commissions, with the exception of one, it was for utility companies. I am leaving out the specific time I gave when I was employed by the New York Commission, but those things you are talking about, when I appeared before the Commissions, it was for public utility companies and, of course, I read their reports and read their decisions. It was a part of my business to know how they arrived at their values and rates and everything of that sort and, in those days, I was quite familiar with it.

The single case where I was employed by anybody else than the utility companies was that Lockport City employed

8290 *William McClellan—By Respondents—Redirect*

me once in a case to represent it against the utility. That

—3,477—

was, of course, after I left the Commission. I cannot tell the year, it may have been '14 or '15. That is the only case outside of those other two cases I mentioned when I was employed by the New York Commission that I was employed by other than utility companies and the one case where I was employed by the Chancery Court in New Jersey in connection with a case.

8291

—3,478—

Q. As the Court's independent expert? A. As the Court's independent expert, yes.

Q. As the chief executive of an operating utility, do you also generally keep in touch with Commission regulation?

A. Not very intimately. I have men in my organization that are supposed to be watching that. The lawyers in my organization will call my attention to outstanding points and things of that sort, but it is utterly impossible with all I have to do to read all that stuff and keep intimately acquainted with it as I once did when it was a matter of my bread and butter.

8292

Q. Now, the views which you have expressed with regard to Commission regulation were based, not only on your employment by State Commissions, but on your entire experience before Commissions and in connection with them?

A. That is what it all comes from, yes.

Q. In other words, your views, as you have expressed them, are based on your entire experience throughout your entire career? A. Oh, quite.

Q. You were asked on cross-examination whether you had refused information to non-affiliated companies, that is, to companies outside of the family group, if they came and asked for it, and also you testified as to what would happen if you asked for such information from non-affiliated companies. You have also testified in your direct examination as to the interchange of information between the affiliated

—3,479—

companies within the North American family group. In your opinion, as a practical matter, would the constant interchange of information continue between the various North American subsidiaries if the family relationship were discontinued? A. It is my very definite opinion that it would not continue. I think I have said in my previous answer to a similar question that there would be some earnest souls that would think it might continue and would try to do it, but I am sure it would not work out. Without some compelling reason at the top, it would not continue.

8294

Q. As a practical matter, do you know of any case in which a utility company with which you have been connected has constantly exchanged detailed information with non-affiliated companies? A. I do not know of any cases. I could add to that. I expected, when I made the contract with Baltimore, with the close relation we would have in handling that power, Baltimore and Potomac companies, as when I was president, we would have relations in regard to operating matters but, much to my surprise, I found there was none at all, they made their decisions without consulting us and we made ours without consulting them. It was on a basis of general comity and not specific arrange-

8295

8296

William McClellan—By Respondents—Recross

ment, but there is no compelling reason and it just doesn't happen, that is all.

—3,480—

Q. That is in the absence of common financial interest?

A. That is what I mean exactly.

Mr. Odell: I would like to interrupt you. I didn't get part of his answer. Do you mind if she reads it back?

8297

(Whereupon, the preceding answer was read.)

Recross Examination by Mr. Odell:

8298

Q. Mr. McClellan, you referred to the interchange of information between your Baltimore companies and the Washington companies. In your opinion, are the operations of these two companies similar? A. Yes, similar to the extent they are both serving large cities, both have the same kind of problems of growth to meet and both have sales problems, both have company policies. I would say there was quite a similarity between the operations of the companies on their general basis.

Q. Are you familiar with the men who are the executive heads of the Baltimore company? A. Oh, yes.

Q. Do you respect their ability as engineers? A. Not as engineers.

Q. Well, go ahead. A. Mr. Herbert Wagner is an engineer and so am I, but how much respect he would give me as an engineer these days and how much I would give him, I don't know, but as an executive head I have respect for him.

—3,481—

William McClellan—By Respondents—Recross

8299

Q. As an executive head you have respect for him? A.
Yes.

Q. Have you ever discussed with Mr. Wagner the question of exchanging information? A. No.

Q. Between his company and the Washington companies?

A. No, not with regard to larger decisions. Of course, don't misunderstand me, there is a lot of minor stuff in the handling of that high-line between two companies, the boys in his company and our company, dispensing the power and things like that, over the use of it, but no discussions at all in regard to general company policy. For example, to give you an illustration of what I mean, I am quite certain we decided to put an extra 50,000 kilowatt generator in Washington and I am quite certain that Baltimore didn't know a thing about our decision to do it, and if they decide to build a station in Baltimore, we wouldn't know a thing about their decision to do it.

Q. Did you ever discuss your decision to build this 50,000 kilowatt station with Mr. Wagner? A. No, not a bit. Of course, this last 50,000—I wasn't here, but the other one I was in charge of, the one that just went into operation about a month ago.

Q. Now, do you find from your connection with the Washington company,—would you say that the Washington company would benefit from interchange of information with the

8300

Baltimore company? A. Why, if we could get it, just as we would with the Cincinnati company, but no more than the others. That contractual relation doesn't bring it about only for that, except in the use of that particular facility.

—3,482—

8302

William McClellan—By Respondents—Recross

Q. I think you have testified to the effect that the companies, subsidiary companies of the North American system have benefited from this interchange of information? A. Well, I haven't the slightest doubt about that.

Q. You have also testified that you are familiar with the operating heads of nearly all of these subsidiary companies in the North American system? A. Yes.

Q. And that you have great respect for their abilities? A. Yes.

8303

Q. In your opinion, would you say that these operating heads are short-sighted businessmen? A. Which operating heads?

Q. Of the various subsidiaries in the North American system. A. No, I have great respect for them. I think they are long-headed and pretty canny.

Q. And do you think that these gentlemen are aware of the value that results from this interchange of information among the subsidiaries? A. Yes.

—3,483—

8304

Q. I am sure of it. Considering their ability and your opinion of them, do you think that these gentlemen would arbitrarily cut off this interchange of information? A. No.

Mr. Odell: That is all.

The Witness: But wait a minute. They wouldn't arbitrarily cut it off but they wouldn't be able to keep it up, because it is something that permeates the mass. Everybody has got to understand it.

Mr. Odell: I will ask you another question.

Mr. Browning: Read me the last answer, will you?

(Whereupon, the last answer was read by the reporter.)

Mr. Odell: I have no other questions.

Mr. Browning: That is all.

(Discussion off the record.)

Mr. Browning: We now move for an adjournment of the hearing until Monday, December 9, at 10:00 o'clock a.m.

The Examiner: No objection to that is there Mr. Odell?

Mr. Odell: No objection.

The Examiner: Very well, the hearing is now continued until December 9 at 10:00 a.m.

(Whereupon, at 12:15 o'clock p.m., the hearing in the above matter was continued until 10:00 o'clock a.m., Monday, December 9, 1940.)

—3,484—

8308

Colloquy

AFTERNOON SESSION

(2:15 P.M.)

The Chairman: Are you ready?

Mr. Binford: Yes, sir.

The Chairman: I understand counsel for North American has moved for a continuance for two weeks.

Mr. Browning: That is correct.

The Chairman: May we ask whether, at the end of any continuance which will be granted, you will be ready to move forward then with the conclusion of your case without further delay?

Mr. Browning: I took some time during the noon hour trying to work out a schedule. I was a little caught by surprise this morning at the argument. I figured at the noon hour that we would probably be through in five weeks, including adjournments. The way I reached that conclusion was this: We have about three more batches of evidence, if you want to call them that, which we think about as so-called tie-in testimony and the so-called North American general testimony, and then the third batch is just odds and ends. Now, none of those are at all extensive.

Commissioner Healy: What is the nature of the remaining evidence? What are the issues that you have still got to give testimony about?

Mr. Browning: As to the first batch, the so-called tie-in testimony, Mr. Commissioner, we have now completed the factual presentation with regard to all of the public utility subsidiaries of the North American Company, and all businesses connected with them di-

rectly. In giving that evidence we have not given any evidence substantially with regard to tie-ins between any particular subsidiaries. What we now wish to put in is rather brief additional evidence on this matter of tie-ins. That is in no sense a duplication. We do not intend to duplicate anything that is in this record.

Commissioner Healy: What issue is that directed to?

Mr. Browning: Well, it is directed, in very large part, to the single integrated systems constituting a system.

Commissioner Healy: What about (A) and (C)?

Mr. Browning: (A) and (C) do not affect the definition of a single integrated system.

Commissioner Healy: What about those issues?

Mr. Browning: Our evidence to date covers (A) and (C).

Commissioner Healy: It does?

Mr. Browning: Yes. We have no thought of duplicating anything which we have put in, and what we have remaining to put in is relatively brief.

Commissioner Healy: That would close the record on all issues in this case, unless the staff wanted to—

Mr. Browning: (Interposing) Just a moment. Now then, as to the second batch in what I said we referred to, in our own minds, as the so-called North American general testimony, we want to put in certain brief testimony with regard to the North Ameri-

8314

Colloquy

can Company itself, its acquisition of these investments, the holdings of them, and very briefly with

—6,850—

respect to the three subsidiaries or groups of subsidiaries which are not public utility subsidiaries. I am referring to North American Utilities Securities Corporation, the West Kentucky Coal Company and its subsidiaries, and the 60 Broadway building.

The Chairman: Could not all that be stipulated?

8315

Mr. Browning: The testimony which I intend to put in regarding those three subsidiaries is going to take about an hour. It would take me so much longer to discuss the stipulation.

The second batch of testimony which I have been discussing is, of course, primarily directed to the constitutional issues in the case. We wanted to be sure we are putting in all the proof that is necessary to try the constitutional issues, but, as I say, it is not very extensive.

8316

Then finally I have referred to odds and ends. Now in any proceeding of this character you are bound to have odds and ends. People have made motions at various times which have been held in abeyance; the Commission counsel has requested that certain additional matter be furnished for the record; we have a motion to strike the 24 feet of exhibits that the Commission counsel put in.

Mr. Binford: Which motion is not filed. You mean you have in mind the motion.

Mr. Browning: We reserved the right to move to strike, and we intend to move to strike. In regard to

that last matter, if I may give you some indication

—6,851—

of what is involved, I had an emissary come down and make an index of the 24 feet, and he came back and reported he could not make a complete index but he had a partial index, which was 57 pages single spaced, and I think you will appreciate the motion to strike that material will take a little time. What happened was that this stuff was just dumped with no regard to its relevancy or materiality.

8318

Commissioner Eicher: Two pages of index to a foot is not so bad.

Mr. Browning: I thought he did a pretty good job; yes. With all this in view I would personally estimate at this time, and I think we have gotten to the point where we can make a pretty good estimate, that including adjournments we have got about five weeks altogether.

The Chairman: Including adjournments of what nature?

Mr. Browning: That is the point. I suggested this morning and pressed for a two-weeks' adjournment. The reason I did it was that the second week happens to be a particularly unfortunate week for our particular purposes. It is Easter week, Washington is going to be jammed, we have our hotel troubles, and so forth. I realize those difficulties are all restricted to people working on the job. I thought it all over during the lunch hour, and in view of the staff's position I am agreeable to reducing the motion to a week.

8319

8320

Colloquy

The Chairman: To a week?

—6,852—

Mr. Browning: Yes. I have no desire whatever to delay the proceedings.

The Chairman: If you get the week you want a further adjournment then?

Mr. Browning: Yes, I would, Mr. Chairman. Here is what I have in mind: If I could get a week's adjournment I would expect the first batch of testimony we put in to take about a week, that is all, the second week, and then the constructive thing to do at that point, in my opinion, would be to take a two-weeks' adjournment, and at the end of that two weeks to put in everything else.

The Chairman: Let us see what the "everything else" is. Your first batch is the incidental businesses?

Mr. Browning: The first batch is what I call tie-in testimony.

The Chairman: Will you repeat that? What is that sort of thing?

Mr. Browning: I said we want to put in evidence regarding the tie-ins of certain of these systems.

The Chairman: In an attempt to meet (A) and (C).

Mr. Browning: In an attempt to meet 2(a)(29).

Commissioner Eicher: Of course (A) and (C) are largely embodied in the 2(a)(29).

Mr. Browning: Yes, Mr. Commissioner.

The Chairman: You want that tie-in testimony, and then you have got testimony relating to the inci-

dental businesses?

—6,853—

Mr. Browning: That is right. Those three I mentioned.

The Chairman: That you said would take about an hour?

Mr. Browning: I said the three incidental businesses would take me about an hour.

The Chairman: Yes, I said that would take you about an hour.

Mr. Browning: Yes. Then remember we have got this testimony regarding North American itself on the constitutional issue. I expect that stuff to take about a week. By the way, in making my estimates I am including cross examination, as far as I can guess it.

The Chairman: At this juncture, if you get a week's adjournment why can not you go without cessation from there? What do you need to get ready for after that week's adjournment?

Mr. Browning: Above all, what we need to get ready for is odds and ends which, you remember, was my third division. I would rather have the two weeks.

The Chairman: And then your motion to strike?

Mr. Browning: Yes.

The Chairman: You mean you want to particularize the motion as to certain items? Is that what you mean?

Mr. Browning: I imagine so, yes. It is days and days of work.

The Chairman: This may not be an advisable suggestion, but it occurs to me as a possibility: When the Commission comes to make its findings it will, of

8326

Colloquy

course, ignore irrelevant testimony. Why can not the record be closed with leave to you, in connection with requested findings, to make your motion at that time? In other words, why not we hold the record open? If the Commission comes in on your motion, and when the Commission considers it and hears counsel for the Commission, it will perhaps set it down for argument and perhaps not, perhaps pass on it and do what it thinks is right in regard to striking from the record. Why not hold the hearing record open for the trial examiner for that purpose?

8327

Mr. Browning: For that particular motion?

The Chairman: Yes.

8328

Mr. Browning: That would be a very constructive way to deal with it. Of course that is not the only odd and end. Let me give you another example. One of the things which we have been thinking about but never had time to reach a conclusion on is how we can get in this record, for the constitutional issue, enough in regard to securities and their rights and not too much, and the easy thing for me to do would be to do what our learned opponents did, to dump in the Atlantic Ocean, all the indentures and debentures, but I do not want to do it. For instance, we may want to frame a stipulation with the staff by which there might be leave to refer, but all of these things take a little time, and I call them odds and ends.

My purpose in suggesting the two weeks' adjournment there in the middle was to give us a chance to

take a deep breath and to look over the whole picture, to see where we were. In other words, when you close a record in a proceeding like this, not only ourselves but the staff, we want to really think for a little while about what is left to get in.

Commissioner Healy: How far are you planning to go with the constitutional issues, if I may ask? Are you going to put in any evidence as to any companies outside of the North American system? I mean, what are you going to offer in evidence?

8330

Mr. Browning: We are going to offer, I think, very little, very brief. For example, what I have in mind is some evidence on size.

Commissioner Healy: Size of what?

Mr. Browning: Well, the issue under this Act is the size of an integrated public utility system.

Commissioner Healy: We are talking of the constitutional issues now.

Mr. Browning: I beg your pardon. Yes. We probably want to give you some facts. Since one of the bases urged for the constitutionality of the statute would be that holding companies have become too big, we may want to offer a few facts on the subject of what is big. Again, however, in no bulk. In fact in discussing the remaining evidence, no single part of it is bulky. We are, frankly, in a closing-up period here.

8331

Commissioner Healy: If you get the two weeks' adjournment could you then start and go right through

—6,856—

without cessation?

8332

Colloquy

Mr. Browning: Mr. Commissioner, that goes to human nature. I have generally found it advantageous, in a case that we were forced to prepare as we went along, to keep my eye on what was going in next. Your question is going really to: Can we prepare all of it in two weeks. I think it would be better, from an operating standpoint, if I did not try to do that.

Commissioner Healy: Well, if we grant a week's adjournment do you think you could close the record in five weeks, counting next week as one?

8333

Mr. Browning: Yes, sir, assuming I am right on my guess on cross-examination. You realize that that is a little difficult to guess, but I am basing my judgment on the cross-examination to date.

Commissioner Healy: Of course the Commission may indicate inside the next two or three weeks how far we think people ought to be allowed to go in putting in evidence on constitutional issues when the evidence relates more particularly to holding companies in general and then takes evidence outside the particular system that is involved in the pending case.

8334

Mr. Browning: I realize you have got a rather tough set of questions on these so-called tentative conclusion companies. We have nothing bulky on any of this. In other words, I really think, in the evidence that is left, it is rather foolish to argue about it, because it is going to take a lot less time to put it in

—6,857—

subject to a motion to strike than it is to argue about it. For example, the material we are going to put in on

other companies is so brief it would be much easier to put it in subject to a motion to strike. I mentioned that other example of the testimony on the three companies.

Commissioner Eicher: On this problem of constitutional evidence, Mr. Dubois just whispered in my ear the query as to whether or not the court might recognize an arrangement like this, that counsel stipulate, before the first closing of the record, that in the event of an appeal the record may be reopened to present such additional constitutional evidence as either party may desire before prosecuting the appeal.

Mr. Browning: Well, that is certainly one way to handle it. Again, however, my views are colored by the fact that we are so close to the end. I take it that even after this record is closed nobody is going to object to reopening it to the extent of putting in a very limited set of facts. I mean, for example, as you all know, the sale of the Nebraska Natural Gas Company, if the record had been closed and if we wanted to reopen it simply to put evidence in on that company, I do not think anybody would object. In other words, I think the suggestion which has been made would be much more apropos in the case of a record which had not progressed as far as ours had.

The Chairman: Anything further?

Mr. Binford: May it please the Commission, our argument this morning was on two things: first, an

8338

Colloquy

8339

objection to the granting of a motion for recess, and, secondly, there was an objection to the introduction of any further testimony on the part of the respondents on the ground it affirmatively appeared, and had now been admitted, that on the record every possible integrated utility property or activity has already been covered by detailed engineering testimony and evidence in this case, and covered also in respect to business and financial operations, and otherwise, as well as every business that is operated in any way that can be considered as in connection with any possible integrated system. That necessarily leaves anything else, it would seem, as a mere matter, presumptive at least, of greater detail and surplusage. Of course they have the right to present their case, but that would appear to be the case unless there is a clear offer of proof which up to that time had not been made on the record, an offer of just what additional evidence they propose to produce. We finished all the operating properties and all the business that under any geographic or other conception, could be considered as possibly incidental to the operations of any of these several systems. That is all completed in this possibly 7,000 pages of evidence.

8340

The Chairman: What about these properties to which reference has been made?

Mr. Binford: Those properties under U-5-B and U-5-S of the North American Company in evidence in this case. We have some information concerning

those properties there which shows other non-utilities, other direct subsidiaries of North American Company, which are not in the geographic field of operation, that is the activities are not, of any of the several utility properties operated within the system. We also have the other side of the picture, namely, the detailed description of the operation of these utilities, so we can see from both sides that there is no possibility of interlocking there, and I do not think there has been any contention made that there was. So I think on the very face of the record a detailed description of those non-utility properties, which are wholly outside the system except for common stock ownership for a common period, that any evidence on the activities of any of these operating systems is a waste of time.

8342

The Chairman: Counsel says it will not take him more than an hour to put that evidence in.

Mr. Binford: I understood it was to take more than a week or so.

The Chairman: Suppose that is an hour, you have got two other categories of evidence, as I understand.

8343

Mr. Browning: No, Mr. Chairman. That hour you are talking was part of my estimate of a week, which also included this general testimony I want to offer about North American Company.

Commissioner Eicher: You mean the constitutional question?

Mr. Browning: That is right.

—6,860—

The Chairman: You say there are three categories?

Mr. Browning: That is right.

8344

Colloquy

The Chairman: One is the non-utility properties and these other things?

Mr. Browning: No, that and North American Company in general.

The Chairman: See if I follow you. You have got certain incidental properties as to which you want to introduce evidence, is that correct?

Mr. Browning: Yes.

The Chairman: That is one category?

8345

Mr. Browning: Yes.

The Chairman: Just let me separate them, if I can.

Mr. Browning: All right. Then you should put down as your second category the testimony about the North American Company itself.

The Chairman: That is the constitutional element?

Mr. Browning: Yes.

The Chairman: Then you have got mopping-up testimony?

Mr. Browning: Odds and ends.

The Chairman: Odds and ends?

8346

Mr. Browning: Yes. Wait a minute. The fourth on your list is what I call the tie-in testimony.

The Chairman: What does that mean?

Mr. Browning: We want to offer evidence with regard to the position of certain of these properties.

—6,861—

The Chairman: For instance, Cleveland and St. Louis?

Mr. Browning: No, no, the Union with other systems, with other properties.

The Chairman: That is not in as yet?

Mr. Browning: No, sir.

The Chairman: You have not, therefore, completed your Union case?

Mr. Browning: Well, we have completed Union in the sense that we have described everything that is Union, and I have got no intention of going back to that at all.

Mr. Binford: I disagree as to that being in the record. There is testimony in relation to each company, as to its relation with each other. 8348

Mr. Browning: We are not going to duplicate that.

Commissioner Healy: Whose testimony is that? Yours or his?

Mr. Binford: That is his testimony.

Mr. Browning: Mine. We are not going to duplicate that.

The Chairman: Supposing we set to one side the so-called constitutional question. Can you find out how long it is going to take you? 8349

Mr. Browning: The first two items on your list I figure a week, including cross-examination.

The Chairman: Let us put the constitutional question one side for a minute. Maybe we will not let you put it in, because we can not pass on constitutionality,

—6,862—

we don't know, we have not made up our minds on that.

Mr. Browning: Yes.



8350

Colloquy

The Chairman: Take your incidental properties you say that will take you an hour?

Mr. Browning: Yes.

The Chairman: Now your tie-in evidence, how long is that going to take?

Mr. Browning: I figure a week, including the cross.

The Chairman: And your odds and ends, if you leave out your motion to strike, how long will that take you?

Mr. Browning: Again I figure a week, but if we finish before that—that is at the end, if we finish before that then we are finished.

The Chairman: You need not follow this suggestion, but it occurred to me one way to save time on the so-called constitutional evidence would be for you to advise the Commission in writing of the general character of the testimony, with some particularity, and let the Commission determine whether it will allow it to go in.

Mr. Browning: Mr. Chairman, we are going to spend some time in arguing about it.

The Chairman: Is it going to take a week to put it in?

Mr. Browning: At a maximum, including the cross.

The Chairman: I think you are sanguine, because I can conceive your putting in certain testimony on

—6,863—
constitutionality, if the Commission allowed it to go in

and allowed the Commission to rebut, Commission's counsel, it would take four weeks.

Mr. Binford: Furthermore there may be some objections on whether or not it ought not to go in originally, as to particular items.

Mr. Browning: I can say this: The evidence which I have in mind is not going to take long enough to justify talking about a stipulation. If anybody objects to it the simplest, most expeditious way of dealing with it is to take it subject to the motion to 8354 strike. I am just being practical now.

The Chairman: Supposing we take this under advisement and let you know about the adjournment?

Mr. Browning: Sir?

The Chairman: We will advise about the adjournment.

Mr. Binford: The hearing then stands adjourned?

The Chairman: I think we can advise him within an hour.

Mr. Browning: I have a practical aspect here,
Mr. Chairman.

(Discussion off the record.)

The Chairman: If you will leave us for a little while we may be able to decide in 10 minutes.

(Whereupon counsel retired from the hearing room and after an interim of three minutes the following proceedings were had:)

The Chairman: The Commission will grant an adjournment of a week in the hope that you will not

8356

Collöquy

need any further adjournment when you resume, and before you offer your so-called constitutional evidence the Commission would like to have a statement of an offer of what you intend to prove in that connection, before you get to that.

Mr. Binford: This being Friday—

The Chairman: Beg pardon?

Mr. Binford: The week will be regarded as a week from Monday?

8357

The Chairman: Yes, a week from Monday. Well, sir, it is more than a week, it is 10 days. At any rate, you will resume on the 7th of April.

(Whereupon, at the hour of 2:55 o'clock p. m. an adjournment was taken until Monday, April, 7, 1941; at 10 o'clock a. m.)

—6,865—

8358

BEFORE THE

\$359

Securities and Exchange Commission

DOCKET No. 59-10

IN THE MATTER

of

THE NORTH AMERICAN COMPANY, *et al.*

8360

Hearing Room, Second Floor,
1757 "K" Street, N. W.,
Washington, D. C.,
Monday, April 7, 1941.

Met, pursuant to adjournment, at 10:00 o'clock, a.m.

Before: WILLIAM W. SWIFT, *Trial Examiner.*

8361

Appearances:

S. PEARCE BROWNING, JR., and

CHARLES S. HAMILTON, JR., of Sullivan & Cromwell, 48
Wall Street, New York City, New York, appearing for
The North American Company, et al., Respondents.RALPH C. BINFORD, appearing for the Securities and Ex-
change Commission.

8362

*Colloquy***PROCEEDINGS**

The Examiner: The hearing will come to order.

Mr. Browning: As the Examiner will recall, on March 28th the Commission, after argument, granted an adjournment until today "with the hope" that we would not need any further adjournment after resuming and that before offering so-called "constitutional evidence" the Commission would like to have a settlement of an offer of what we would intend to prove in that connection.

In view of the Commission's position and its desire for expediting the hearings, we have exerted every effort during the past week to that end, and I am glad to be able to say that, assuming the reservation which I will mention shortly, we expect to finish with our testimony this week. We make this estimate of not more than a week with some allowance for cross examination, although, as the Examiner knows, this is very difficult, if not impossible, to estimate. In order to achieve such expedition, we have reduced a considerable amount of testimony to exhibit form, as will appear in the course of this hearing.

As regards the Commission's request on so-called "constitutional evidence": A great deal of the evidence which we have already submitted bears not only on questions of statutory construction but also on constitutionality, and this will be true of the evidence which we will offer this week, so that I see no useful

8363

8364

Elmer L. Lindseth—By Respondents—Direct

8365

purpose to be served in attempting any detailed description of it. However, as to presentation of further evidence dealing strictly with constitutional issues along the lines discussed by counsel in the arguments on Engineers Public Service Company,—and that is really what I understood the Commissioners had in mind,—we will be glad to adopt the suggestion made by the Commission and close these hearings, with the reservation of a right to reopen the hearings and offer such evidence later, and we will propose such a stipulation at the close of the hearings.

8366

Another point which I should mention is that we have not yet had time to prepare our motion to strike the Commission's exhibits, but such motion can either be submitted later, as I believe one of the Commissioners suggested, or the situation handled by stipulation. We expect to make a practical suggestion along these lines later in the week.

Of course, there are other points, chiefly odds and ends, which may occur to the staff or to ourselves before the end of the week, but we can take those up in due course.

8367

Mr. Lindseth.

Whereupon, ELMER L. LINDSETH, a witness produced on behalf of the Respondents, having been previously sworn, was examined and testified as follows:

—6,868—

Direct Examination by Mr. Browning:

Mr. Browning: Will you please mark this series of statistical tables and charts, consisting of ten sheets

8368

Elmer L. Lindseth—By Respondents—Direct

and bound together, as Respondents' Exhibit No. 124 for Identification.

(The document referred to was marked for identification as Respondents' Exhibit No. 124.)

By Mr. Browning:

Q. Mr. Lindseth, when you testified previously in these hearings, you were at that time Assistant to the President of The Cleveland Electric Illuminating Company? A. That is right.

Q. Have you since left the employ of that company? A. Yes, on September 15, 1940.

Q. Will you give us your present occupation? A. On that date I joined the staff of The North American Company as an engineer, and have been engaged continuously since then as a technical assistant on their staff.

Q. Referring to Respondents' Exhibit No. 124 for Identification, have all these tables and charts been compiled under your direction? A. They have.

Q. Now, I would like to take these charts and tables, one by one, and have you tell us the source from which you took the information. Taking Sheet "A", first,—will you please state the sources of these statistics? A. These are

—6,869—

in all cases, from the records of the companies.

Q. And Sheet "B"? A. In the case of the North American Company, these are data from Sheet "A", and taken from the records of the company; in the case of the State data to which the corresponding figure for the North American Company are compared, these are, in all cases, from

Elmer L. Lindseth—By Respondents—Direct

8371

published sources, the area and population being from the U. S. Census, 1930; the Number of Electric Customers, Total k. w. h. Sold, and Total Electric Operating Revenue, Columns 3, 5, and 6, are from published data of the Edison Electric Institute,—the other three columns, 4, 7, and 8, are from published data of the Federal Power Commission.

Q. Turning now to Sheet "C", tell us from what sources that information was obtained? A. Again the data on the North American Company came from Sheet "A" and were taken from the records of the company. The other data are from published sources, in most cases those of the Federal Power Commission reports filed by the several companies and known as their Form 1.

In the case of the Niagara Hudson Power Corporation, these data are taken from Moody's Public Utility Manual, 1940.

In the case of U. G. I., these are from the tentative re-

—6,870—

port of the S. E. C. under date of January 22, 1941.

In the case of American Waterworks & Electric Company, Incorporated, these data were taken from the American Waterworks & Electric Company, Incorporated, Statistical Handbook, 1940.

8373

Data on New England Power Association are also taken from Moody's Public Utility Manual.

Q. Turning to Sheet "D", what is the source there? A. These data, in all cases, represent, only graphically, the data reported on Sheet "C".

Q. Turning to Sheet "E", what is the situation there? A. These data, in all cases, are those reported by the F. P. C.

8374

Elmer L. Lindseth—By Respondents—Direct

in their State Rate Reports, and represent the latest published information from that source, January 1, 1940.

8375

Q. Turning to Sheet "F", what is the situation there? A. Sheet "F" has, as its source in the case of the North American Company companies, the records of those companies; the State averages and the U. S. average are from the published reports of the F. P. C., known as Statistics of Electric Utilities in the United States, 1938. Companies other than those included in State averages, have had their data taken from the reports of those companies to the Federal Power Commission, known as Form 1.

Q. That last category you were referring to are the companies listed under the heading "Other Electric Systems"? A. Yes, sir; that is correct. —6,871—

Q. What were the sources for Sheet "G"? A. The data here on the North American Company are in all cases, from the records of the companies and the corresponding U. S. averages are taken from the Edison Electric Institute Statistical Bulletin No. 7.

8376

Q. Where did you get the basic figures for the line marked "Combined Systems"? A. The Combined Systems source are weighted averages of the three reported systems of the North American Company.

Q. Turning now to Sheet "H", what are the sources of these? A. Data for the North American Company are taken from the records of the companies which, however, check with the sources from which data on other systems was taken, namely,—"Financial Statistics for Electric and Gas Subsidiaries of Registered Public Utility Holding Companies for the Years 1938-1939", Securities and Exchange Commission.

Elmer L. Lindseth—By Respondents—Direct

8377

Q. Referring to Sheet "I", you have testified by footnotes to the source, or sources, of your data, have you not?
 A. That is correct, with the exception that the data for the North American Company, which are not indicated as to sources, are from the records of the company, with the exception of the last column, the data for which have been taken from the S. E. C. Notice of Hearing dated March 7, 1940.

—6,872—

Q. I notice that several of the footnotes apparently do not indicate their source. Could you mention the sources in those cases? A. These would include Footnote (i), the source for which is Moody's Industrial Manual, 1940; (m), the same source; (q), same source; (u), same source; (K), same source; and (L),—

8378

Q. The same source? A. The same source.

The data in the last column are so-called "crow-flight" distances, point-to-point distances taken from the map, as distinguished from the data from the first two lines which was reported by the S. E. C. and which was indicated to be the nearest distance by rail.

8379

Q. In certain figures there, referring to the automobile industry, did you obtain any information from a special source? A. Yes. In the case of the automobile industry, other than the Ford Motor Company, data are from a report of the S. E. C. entitled "Survey of American Listed Corporations, Supplement No. 4, August, 1940." These data are for those automobile companies registered with the Securities and Exchange Commission under the Securities and Exchange Act of 1934, which excluded the Ford Motor Com-

8380

Elmer L. Lindseth—By Respondents—Direct

pany. Data for the latter are from the filed reports in Massachusetts, and are taken from the Wall Street Journal.

—6,873—

Mr. Browning: I offer the exhibit in evidence as Respondents' Exhibit No. 124.

8381

Mr. Binford: I object to the reception in evidence of the Sheets "C", through and inclusive of Sheet "I", upon the grounds that the data relative to properties and operations not comprised within the North American System are wholly irrelevant and immaterial in this proceeding.

Mr. Browning: Has counsel stated his objections?

Mr. Binford: Yes.

8382

Mr. Browning: We contend that it is material and purely relevant and admissible, Mr. Examiner, among other reasons, as bearing upon the issue of statutory construction. The phrase used in both Section 2A29 and 11B1, in the so-called "size test", is "not so large . . . as to impair . . ."—of the Commission is there, by the terms of the law, itself, required to exercise judgment as to size.

I am unable to understand counsel's position that that judgment should be exercised in a vacuum. It is as if you would ask a Fiji Islander, let's say, "What size an apartment house elevator should be." Obviously, he would have to know something about elevators and something about apartment houses.

The Commission and the courts which are going to pass upon the issue of size should have in the record statistics regarding sizes of other electric systems and

other enterprises. It is either that, or counsel is making the contention that somebody is going to

—6,874—

make up his find in a vacuum as to what the size of the unit is. In fact, I must state that I am unable to understand the contention that in considering size, nothing else, no other factors are to be considered whatever.

We submit that the exhibit is clearly admissible.

Mr. Binford: Mr. Examiner, my position is this: Here are a number of selected enterprises of various kinds which are named in this exhibit and their magnitude is the only thing shown. If we followed Mr. Browning's line of thought, it seems to me that this hearing would be opened to a full investigation of the efficiency of the American Telephone and Telegraph Company and other large companies, and whether the issue should include the matter of their efficiency in relation to the efficiency of other companies, and we don't know whether that efficiency is because of their great size or in spite of their great size, and in order to properly bring in these comparisons and receive any real assistance from them, it would be necessary to go into an analysis of the operations of each one of the systems and show wherein their size retarded the efficiency of the operation or whereby it benefited the efficiency of the operation. The mere introduction into evidence, the mere fact that other companies are operating in various fields not covered in this proceeding at all, which

8384

8385

8386

Colloquy

have vast accumulations of capital or which have vast operating enterprises, does not prove their efficiency or inefficiency.

—6,875—

8387

We must, it seems to me, necessarily decide the issue of efficiency with relation to size from what has been shown in this case, plus what the Commission may take judicial cognizance of as to the efficiency of operation of the North American Company and all conceivable relationships brought out by the evidence of its operations and its magnitude. Collateral inquiry into any other large enterprise or enterprises seems to be wholly beyond the possible physical limitation of an inquiry of this sort.

Mr. Browning: It seems to me, Mr. Examiner, that that argument is fundamentally addressed to the weight which counsel claims should be given to the exhibit, rather than to its relevancy.

The Examiner: Off the record.

8388

(Discussion off the record.)

The Examiner: Are you going to interrogate the witness first about this proposed exhibit, Mr. Browning?

Mr. Browning: I have a very few questions on certain of the sheets, nothing else.

The Examiner: Well, suppose you ask him those questions and I will take this under advisement as to the reception of this document in evidence.

Mr. Binford: With reference to the sheets, may the record show that I would like to object to ques-

Elmer L. Lindseth—By Respondents—Direct

8389

tions directed to non-North American properties on the same grounds, namely, immateriality and irrelevance, as I previously objected to the exhibit itself.

The Examiner: Your objection now goes to Sheets "C" through "I", inclusive. That is what I understood to be objected to.

Mr. Binford: Yes, sir.

The Examiner: All right,

8390

By Mr. Browning:

Q. Turning to Sheet "A", Mr. Lindseth, in Columns 1, 2, and 3, you have shown Electric Service Area, Number of Communities Served, and Population Served Electrically. Am I correct in understanding that the area and populations served are the total area and population of the service areas of the respective companies with no deductions because of the fact that any competing electric utility may be situated therein? A. Yes, that is correct. These are respectively, the service area and population served electrically, which are used in the conventional description of service areas.

8391

Q. In other words, to make it concrete, you have included the population of Cleveland, in its entirety, despite the fact that there is also a municipal power plant there? A. Yes, that is correct; we serve a portion of the City of Cleveland.

Q. That would also be true of the City of St. Louis, and the Laclede Company? A. That, too, is correct.

—6,877—

Q. Not with respect to the number of communities that you have excluded, communities in the service area where

8392

Elmer L. Lindseth—By Respondents—Direct

you render no service? A. That is a correct understanding.

Q. But that you have included communities where you render part of the service? A. Yes.

Q. Turning to Sheet "E", will you please refer to the second group of columns which is headed "50,000 and More", and specifically to the percentages given for the Wisconsin-Michigan System. I note that the percentages given are 130, 132, and 124. Is there any special circumstance involved there? A. Yes, there is. This is a unique situation in the basis for comparison in that the only city in Wisconsin with a population of fifty thousand or above, not served by properties of The North American Company, is the City of Madison.

This is a unique city in a number of respects. The company is also served by a holding company subsidiary, Madison Gas and Electric Company, and the community is one of high customer density and of unusually high purchasing power growing out of the circumstances that this is a State capitol and is the seat of a ~~very~~ large State university and the community is one of only modest size, fifty-seven thousand population. Because of this high purchasing power

8394.

—6,878—
growing out of its unique character, the average use per consumer is high and this, coupled with the high customer density and high purchasing power, makes it as a basis for comparison with the entire seven hundred thousand population served by the three North American Systems, rather an unfair comparison.

The character of the electric business done in Madison is primarily one of residential and commercial business, with

Elmer L. Lindseth—By Respondents—Direct

8395

a very small amount of industrial business, but twelve and one-tenths per cent. of the kilowatt-hours sold, as of 1939, were classed as industrial. This gives the community a degree of stability which is quite different from that in an industrial community, making for a certainty of income that is favorable to the company and the consumers.

Further than this, the company serving Madison, electrically, likewise serves it with gas resulting in numerous economies of joint operation.

Q. Is the company which serves Madison a subsidiary of a registered holding company? A. Yes, it is that.

8396

Q. Tell us which company that is. A. United Light and Power Company.

Q. Referring to the percentages shown for Cleveland in the same column, is there any characteristic of the Cleveland

—6,879—

rate which affects those percentages? A. Yes, there is. It will be noted that the three points at which bills are prepared are at twenty-five kilowatt-hours per month use, one hundred kilowatt-hours per month use, and two hundred and fifty kilowatt-hours per month use. These have been chosen by the Federal Power Commission as a basis of comparison on somewhat of an arbitrary basis and are not truly representative of the picture of representative rates.

8397

It is a characteristic of the Cleveland Company that its rate to small users are low, witness the column headed "Twenty-five Kilowatt-Hours Per Month" where the average rate of the Cleveland System is but eighty-eight percent. of the State average of other companies for the same use.

8398

Elmer L. Lindseth—By Respondents—Direct

At one hundred kilowatt-hours per month, the percentage relationship of the Cleveland and state-wide average is one hundred and twelve per cent. Now, based on the so-called distribution of customers by use, in the metropolitan Cleveland area, fifty per cent. of the customers use fifty-one kilowatt-hours per month or less, based on the most recent study of that characteristic, October, 1939, that is,—one-half of the customers use fifty kilowatt-hours per month or less. In the same city it was determined that seventy-five per cent. of the

8399

customers use seventy-six kilowatt-hours per month or less. That is three-quarters of all residential consumers use

—6,880—

seventy-six kilowatt-hours per month or less. At one hundred kilowatt-hours, and above, but eleven per cent. of the customers are affected. That is, then, as a basis for weighted average comparison, the arbitrary point at which the Federal Power Commission compares these bills,—namely, twenty-five, one hundred, and two hundred and fifty, are likely to give a rather warped prospective, giving an amount of emphasis to large users greater than is deserved.

8400

For example, at two hundred and fifty kilowatt-hours per month, and above, but one per cent. of the customers of the Cleveland System were affected, as of the date of that study. . . .

Referring again to the twenty-five kilowatt-hours per month, and smaller bills, it is a characteristic of Cleveland rates that a fifteen kilowatt-hours a month, that is, a very small user, its bill of sixty cents is extraordinarily low and by that, we may use as a comparison, all of the cities in the United States with a population of two hundred and fifty thousand or above, that is, large cities.

Elmer L. Lindseth—By Respondents—Direct

8401

As of January 1, 1940, the date of this comparison, no city in the United States in this population class, two hundred and fifty thousand and above, had rates lower than these of the Cleveland Company. This includes both publicly owned and privately owned utilities. None had a bill lower than the Cleveland Company at fifteen kilowatt-hours per month.

—6,881—

Q. Now, referring to the very last line in the column group which consists of the figure one hundred and one repeated three times, am I correct in understanding that that same figure is affected by the Madison situation which you mentioned? A. Yes, that is correct.

8402

Mr. Browning: Off the record.

(Discussion off the record.)

Mr. Browning: Referring to Sheet "F", I might state that the reason why the companies shown under the heading "Other Electric Systems" were selected is that they are the leading systems which are not 8403 subsidiaries of registered holding companies.

I should add to that we excluded Detroit Edison Company and Pacific Gas and Electric Company because their status has been in doubt.

Mr. Examiner, that is all I have to ask this witness at this time but I will recall him tomorrow or the next day when one or two additional exhibits are ready, which we were unable to have ready by this morning.

8404

Colloquy

The Examiner: Very well, Mr. Browning.

Mr. Binford: Mr. Examiner, I would, at this time, like to withdraw my objection to Sheets "E", "G", and "H", of the offered exhibit, Number 124, but insist upon it as to the remaining Sheets "C", "D", "F", and "I", severally, since the sheets I first mentioned are not a direct bringing in of individual non-

—6,882—

8405

North American Companies and the same reasons do not exist for the exclusion of those sheets as does exist in the case of the others.

The Presiding Officer: With reference to Sheet "E", let the record show that interlineation of the words "Percentages of State Averages—Excluding the North American Company Properties" has been allowed.

Mr. Browning: Could the record also show that Sheets "A", "B", "E", "G", and "H", are admitted in evidence; the balance, as I understand it, being under consideration by the Examiner?

Examiner: Yes, that is the status. Sheets "A", "B", "E", "G", and "H", are now admitted in evidence and I will reserve a ruling with respect to Sheets "C", "D", "F", and "I".

(Respondents' Exhibit 124, Sheets "A", "B", "E", "G", "H" received in evidence.)

Mr. Hamilton: I will call Mr. Freeman.

Herbert C. Freeman—By Respondents—Direct

8407

Whereupon, HERBERT C. FREEMAN, a witness produced on behalf of the Respondents, having first been duly sworn, was examined and testified as follows:

Direct Examination by Mr. Hamilton:

—6,883—

Q. Will you give the reporter your name and address, Mr. Freeman? A. Herbert C. Freeman, 60 Broadway, New York City.

Q. Are you now a Vice President of The North American Company? A. Yes, sir.

8408

Q. And for how long a period have you served in that capacity? A. Since July, 1927.

Q. Do you now hold certain directorships in The North American Company System? A. I am Director of The North American Company, The North American Utilities Securities Corporation, West Kentucky Coal Company and its three small subsidiaries,—Sixty Broadway Building Corporation, The Cleveland Electric Illuminating Company, North American Light and Power Company, and Wisconsin Electric Power Company.

8409

I am also a Director of Pacific Gas and Electric Company and of the Associated Music Publishers, Inc., in which North American Company has an interest.

Q. And have you, from time to time, during the period of your officership with The North American Company, held certain other directorships in The North American Company System? A. Yes, I have.

—6,884—

Q. Now, will you state your business experience, Mr. Freeman? A. Shall I go back to 1898?

8410

Herbert C. Freeman—By Respondents—Direct

In 1898 I became a very junior clerk in a firm of East India Merchants in London. I then had an opportunity to go into the George A. Touche and Company, chartered accountants in London, and I was there for three years and was most of the time secretary to Mr. George Touche.

I then came to this country in 1902 and joined the firm of Touche, Niven and Co., public accountants. I passed my examination for Certified Public Accountant in the State of New York in the spring of 1904 and later on, I became a

8411 partner of Touche, Niven and Co. and remained there until the end of 1920 and at the beginning of 1921, I left them to become Vice President and General Manager of one of their clients, The National Cloak and Suit Company, which was then the third largest mail order business in the United States, and I later became President of that company.

I remained President until it merged with another company in April, 1927, when I became free and Mr. Dame, who was then President of North American Company and whom I met earlier and with whom I worked earlier in my work as a public accountant, bearing I was free, asked me to join

8412 The North American Company, which I did, in July.

Q. And since that time, you have been continuously en-

—6,885—

gaged in the affairs of The North American Company? A. Yes, sir.

Q. When was The North American Company incorporated? A. It was incorporated June 14, 1890.

Q. And did it, at or about the time of its incorporation, take over the assets of another company? A. At that time it acquired the assets of the Oregon and Trans-Continental

Herbert C. Freeman—By Respondents—Direct

8413

Company, a corporation which consisted chiefly of railroad securities and some securities of the predecessor of the present Wisconsin Electric Power Company. It also included two thousand shares of capital stock of Edison General Electric Company, the predecessor of the present General Electric Company.

Q. And under the laws of what State was The North American Company incorporated? A. Under the laws of the State of New Jersey.

Q. And its capitalization at the time of incorporation consisted of what? A. Capital stock of one class, in the amount of \$40,000,000.00.

8414

Q. And how does that compare with its present capitalization? A. At December 31, 1940, the total capitalization was \$265,309,195.00, including earned surplus of \$44,132,991.00; and paid in surplus of \$312,994.00; in addition, it had

—6,886—

capital surplus which has now been transferred to reserve for contingencies amounting to \$32,801,970.00. That is not included in the figure of \$265,000,000.00.

8415

Q. Who was the first President of The North American Company? A. The first President of The North American Company was Mr. Henry Villard, a former Civil War Correspondent and a leading financier in the latter part of the 19th Century. Mr. Villard was one of those associated with Edison in the initial development of electricity in the early 1880's, and he served as the first President of Edison General Electric Company, the predecessor of the present General Electric Company.

Q. For what purpose was The North American Company organized? A. For the purpose of taking over the assets

8416

Herbert C. Freeman—By Respondents—Direct

of Oregon Trans-Continental under a charter which gave it broader powers than the charter of that company.

Q. And as originally constituted, was it organized for the purpose of operation of railroad enterprises?

8417

Mr. Binford: I object to the question on the ground that it has not been shown that the witness had any personal knowledge of any purposes for which the corporation was organized, other than such as he may have obtained from the records of the corporation, namely, from the charter or the Articles of In-

—6,887—

corporation; and as to such material, the Charter or Certificate of Incorporation is the best evidence, itself. I might also point out that such copy is in evidence in this case.

Mr. Hamilton: May I make a new observation, Mr. Examiner?

8418

As counsel knows, the Certificate of Incorporation, generally speaking, is a very broad instrument and does not necessarily state specifically the purposes or, exclusively, the purpose for which any corporation is organized.

Now, I don't think we could produce anyone at this stage who could testify to the organization of The North American Company fifty-one years ago.

I would like to ask the witness a question or two in order to develop what this company's business was to be.

Herbert C. Freeman—By Respondents—Direct

8419

By Mr. Hamilton:

Q. You have testified, Mr. Freeman, that continuously, since 1937, you have been a Vice President of North American? A. Yes.

Q. And as such, you have had access to the books and records of The North American? A. Yes.

Q. And included among the books and records, are there, or are there not, annual reports and other documents indicating the original purpose for which the company was formed?

—6,888—

8420

A. Yes.

Mr. Hamilton: I submit the witness is qualified to answer the question.

The Examiner: The objection is overruled.

Mr. Binford: Exception, please.

The Witness: The original intent was to operate in the field of railroad finance and promotion of electric light and power enterprises.

By Mr. Hamilton:

8421

Q. Now, I believe you have testified that at the time of the organization of North American Company there were included among its assets, certain railroad securities. What disposition was made of those railroad securities? A. They were entirely sold during the early years of the company's history, that is, between 1890 and 1895.

Q. Now, at what stage of the development of the electric industry did the organization of North American occur? A. It was within eleven years of the invention by Edison of the

8422 *Herbert C. Freeman—By Respondents—Direct*

generation and transmission of electricity for the purpose of incandescent lamps and it was within eight years of the building of the first power station.

Q. That is, the first central generating station? A. For commercial generation, yes.

—6,889—

By Mr. Hamilton:

Q. You spoke of certain securities held by The North **8423** American Company in properties now represented by Wisconsin Electric Power Company. When did the first consolidation of those properties occur? A. In 1890 those properties were consolidated, and that became the first company which generated power, electric power for street railway and general commercial purposes.

Q. Did The North American Company at an early stage of its history enter into a contract with Thomas Edison? A. It had a contract with Thomas Edison under which it became entitled to the use of his inventions for the application of electricity to street railway purposes, and under that contract it undertook to finance the cost of his experiments during that 5-year period.

Q. And, if you know, at what time was that contract executed? A. It was dated October 1, 1890.

Mr. Hamilton: Please mark this bound volume, consisting of 68 numbered pages, for identification as Respondents Exhibit No. 125.

(Whereupon the document referred to was marked Respondents' Exhibit 125 for identification.)

Herbert C. Freeman—By Respondents—Direct

8425

The Witness: May I add this to my reply to one of the recent questions: The contract with Edison gave The North American Company the right to the use —6,890—

of Edison's patents with respect to railways of all descriptions—I think I may have said street railways—and to other important developments in the electrical industry.

By Mr. Hamilton:

8426

Q. Now will you state, Mr. Freeman, what Respondents' Exhibit No. 125 for identification represents? A. It consists of schedules showing the securities issued by The North American Company, North American Edison Company, The Wisconsin Edison Company, Inc., Western Power Corporation; also of dividends paid by The North American Company; and analyses of investments held December 31, 1940 by The North American Company.

It also contains a schedule showing for each of the years from 1915 to 1935, inclusive, the largest debit balance of combined loan and advance accounts of operating subsidiaries which had debit balances for the greater number of months during the year, that is to say, advances to those companies by The North American Company, The Wisconsin Edison Company, Inc., and North American Edison Company, which were the three holding companies in the system.

8427

Q. North American Edison, Western Power, and Wisconsin Edison were intermediate holding companies, were they not? A. Yes.

Q. And all three have since been dissolved? A. Yes.

—6,891—

8428

Herbert C. Freeman—By Respondents—Direct

Q. Has this exhibit been prepared under your direction?

A. Yes.

Q. And have the facts set forth been taken from the records of The North American Company? A. Yes, they have.

Mr. Hamilton: I offer the exhibit in evidence as Respondents' Exhibit No. 125.

Mr. Binford: No objection.

8429

The Examiner: It is so admitted in evidence.

(Respondents' Exhibit 125 for identification was received in evidence.)

Mr. Hamilton: May we have a little recess at this time, Mr. Examiner?

The Examiner: Yes, we will have a short recess.

(Whereupon a short recess was taken.)

By Mr. Hamilton:

Q. You stated, Mr. Freeman, the present capitalization of The North American Company. How is that distributed as among classes of securities? A. It is a simple and well-balanced capital structure, consisting of three series of debentures, issued under one indenture, with variations in the terms of interest rates, maturity dates and redemption prices; two series of serial preferred stock, varying as to dividend rates and amounts to be received in the event of voluntary liquidation; and one class of common stock.

—6,892—

Q. And what are the ratios of the various classes of securities to total capitalization? A. The debentures amount to

Herbert C. Freeman—By Respondents—Direct

8431

\$70,000,000, of 26.4 per cent. of the total capitalization; the preferred stock amounts to \$65,136,950, or 24.5 per cent. of total capitalization; and the common stock and surplus amount to \$130,172,245, or 49.1 per cent.

Q. And during the entire history of the company, what is the lowest percentage represented at any time by common stock and surplus as compared with total capitalization? A. The common stock and surplus have never been less than 48.5 per cent. of total capitalization.

Q. Now in order to get a general idea of the development of this security structure, will you indicate, very briefly, the general periods to which issuance of securities fall? A. From 1890 to 1921, there was one class of capital stock outstanding; from 1921 to 1939, there was one class of preferred stock and one class of common stock outstanding; and from 1939 to 1940, there have been two series of preferred stock and the common stock outstanding.

Q. And as to the funded debt of The North American Company, can the issuance of securities representing funded

—6,893—

debt be similarly classified as to periods? A. There has been funded debt, or similar securities outstanding in nineteen of the fifty-one years of the existence of the company; from 1895 to 1896, there were collateral promissory notes; from 1907 to 1912, there were 5-year collateral trust gold notes; from 1931 to 1939, there was one series of debentures; and from 1939 to 1940, there were three series of debentures.

Q. And what— A. (Interposing) With the exception of the notes outstanding in 1895 and 1896, on which the interest rate was 6 per cent., The North American Company

8433

8434 *Herbert C. Freeman—By Respondents—Direct*

has never issued funded debt on which the rate of interest exceeded 5 per cent., and the present debentures bear interest at the rates of 3.5 per cent., 3.75 per cent., and 4 per cent. per annum.

Q. Referring, again, to the issuance of securities, and particularly of stocks of The North American Company, have there been recognizable periods, based on the consideration received upon the issuance of such securities, which you could describe for us very briefly? A. Well broadly speaking, there 8435 have been seven periods, which fall apart rather naturally; from 1890 to 1905, there were, first, the issue of capital stock for the assets of Oregon and Transcontinental, and then some further stock issued for cash; from 1905 to 1907, there was the issue of further capital stock in exchange for

—6,893a—

investments in subsidiaries, and there were also \$2,500,000 of 5 per cent. gold notes, which were retired between 1909 and 1912—

Q. (Interposing) Out of the proceeds of the issue of stock? A. Yes. From 1921 to 1923, common stock was issued for cash, and preferred stock was issued in connection with the acquisition of Cleveland Electric Illuminating Company; and from 1924 to 1933 was the period of stock dividends. During that period, from 1923 to 1934, dividends were paid on the common stock entirely in common stock.

Q. Common stock of The North American Company? A. Of The North American Company. And in 1934, a major part—no, not a major part, a substantial part of the dividends were paid, also in common stock of The North American Company.

Herbert C. Freeman—By Respondents—Direct

8437

Then, overlapping that period, from 1925 to 1929, and to a minor degree in 1930 and 1931, there were issues of common stock and preferred stock in the acquisition of companies which became subsidiaries.

In 1931 was the first issue of debentures to retire bank loans which had been incurred by The North American Company, chiefly to provide funds to enable the Union Company—that is the Union Electric Company of Missouri—to make its extensive expenditures in the Osage development.

—6,894— 8438

Q. That is the Osage hydro-electric plant, is it? A. Yes.

Then in 1939, North American Edison Company was dissolved, and the debentures of North American were refunded, and at that time the present \$70,000,000 of debentures and the 5.75 per cent. series of preferred stock were issued.

Q. Why was North American Edison Company organized? A. It was organized in 1922 to serve as a vehicle for the financing of the acquisition of the Cleveland Electric Illuminating Company.

Q. And why was Wisconsin Edison Company organized? A. It was organized in 1914 by offering its securities to the stockholders of The North American Company, for the purpose of providing a vehicle for financing the development of the properties in Wisconsin.

It was dissolved in 1924, but prior to that time its properties had, for the most part, been transferred to North American Edison Company.

Q. Have all securities of North American Edison and Wisconsin Edison been retired? A. They have all been retired.

8439

8440

Herbert C. Freeman—By Respondents—Direct

Q. Has The North American Company ever issued any stock which did not bear voting rights? A. No. All issues of capital stock by The North American Company have had

—6,895—

voting rights.

Q. And how about issuances of preferred stock, have they similarly had voting rights? A. Yes.

There was only one class of stock with full voting rights from 1890 to 1921; from 1921 to 1939, there was one class of preferred stock and one class of common stock, and the holders of preferred and common stock were entitled to one vote per share for all purposes; and from 1939 to 1940, there have been two series of serial preferred stock and one class of common stock. The holders of the serial preferred and of the common are entitled to one vote for each share for all purposes, except for the election of directors.

8442

Q. Without going into detail, are there certain special rights with respect to the election of directors in the case of the serial preferred stock? A. Yes. The serial preferred stock has the right to elect one-fourth of the directors, under normal conditions, and it elects a majority if preferred dividends are in default for twelve quarterly periods.

Q. Now, have there been at various times in the company's history reclassification of its common stock? A. The common stock, which was originally \$100 par value, was reclassified in 1921 into one share of preferred stock of the par value of \$50 and one share of common stock of the par

—6,896—

value of \$50.

Herbert C. Freeman—By Respondents—Direct

8443

In March, 1923, each share of common stock of \$50 par value was split up into five shares of common stock of \$10 par value; and then in April, 1927, each share of common stock was changed into one share of no par value stock, which, however, was continued at the value of \$10 a share, and at that time the redemption price of the 6 per cent. preferred stock was increased from \$52.50 a share to \$55 a share.

Q. That applied to the preferred stock then outstanding, did it? A. Yes, sir.

8444

It was felt that this would give that stock a better standing in the market.

Q. And was there a further reclassification of stock in 1939? A. In 1939, the 6 per cent. preferred stock which was then outstanding was reclassified as a series of the serial preferred stock which was created at that time, and the common stock was changed from no par value to \$10 par value.

Q. Now, during the entire period of its existence, has The North American Company ever defaulted in the payment of principal or interest on any evidence of indebtedness? A. No, sir.

8445

Q. Has it ever failed during the entire period of its existence to pay preferred stock dividends when due? A.

—6,897—

No, sir.

Q. In other words, there has never been an arrearage on any preferred stock of The North American Company, is that right? A. That is right.

Q. Has any public utility subsidiary of The North American Company ever defaulted on payment of principal or in-

8446

Herbert C. Freeman—By Respondents—Direct

terest on any indebtedness issued by it while a subsidiary of The North American Company? A. No, sir.

Q. Has any public utility subsidiary of The North American Company ever defaulted on payment of dividends on preferred stock which has been issued while that company was a subsidiary of The North American Company? A. Well, the Milwaukee Company, the predecessor to the present Wisconsin Electric Power Company, which was known as the Milwaukee Electric Railway & Light Company, issued \$3,500,000 of preferred stock in 1896, and payment of dividends on that stock was not begun until 1900.

8447

Q. That stock was non-cumulative at the time, was it? A. I believe it was. Dividends have been paid quarterly since then without interruption.

Then in the case of Illinois-Iowa Power Company, the dividends on its preferred stock, which had not been issued while it was a subsidiary of North American, went into arrears in 1932, and as of May 1, 1937 that preferred stock

—6,898—

8448

was recapitalized, and the recapitalization was the subject of litigation, and one of the remedies asked by the complainants was that dividends should not be paid on the preferred stock.

Q. I believe there is testimony in the record on that matter. A. Those are the only exceptions.

Q. So that with these two exceptions, your answer to my question would be in the negative, would it? A. Yes, sir.

Q. Now, are there certain non-utility subsidiaries of The North American Company having preferred stocks outstand-

Herbert C. Freeman--By Respondents--Direct

8449

ing on which there is a present arrearage? A. Non-utility subsidiaries, did you say?

Q. Having securities, preferred stocks outstanding with the public? A. There are outstanding 4,344 shares of West Kentucky Coal Company preferred stock, on which arrearages at December 31, 1940 amounted to \$40.125 per share. Those are the shares outstanding with the public. The remainder of the stock is owned by The North American Company.

The preferred stock of North American Light & Power Company, of which 109,255 shares are held by holders other than The North American Company, had arrearages of dividends at December 31, 1940 of \$51 per share.

6,899-

Mr. Van Wyk has testified with regard to the 5 per cent. preferred stock of Illinois-Iowa Power Company. There were 461,522 shares held outside of The North American system at December 31, 1940, on which there was an arrearage of \$9.16 $\frac{2}{3}$ per share, and that company also had outstanding dividend arrears certificates calling for \$24 per certificate, which were held outside of The North American system to the extent of 465,217 certificates. Those certificates were issued in 1937, in connection with the reclassification of the stock of that company.

Also, Illinois Traction Company had 210 shares of 6 per cent. preferred stock held outside of The North American system, on which arrearages amounted to \$48 per share at December 31, 1940:

There is another company, which is a utility company, a small company, the Kewanee Public Service Company. It

8451

8452

Herbert C. Freeman—By Respondents—Direct

has 7 per cent. preferred stock outstanding, of which 5,504 shares are held outside of The North American system, and the arrearage amounted to \$28 a share.

Q. That stock was issued, was it, prior to the time at which Kewanee Public Service became a subsidiary of The North American Company? A. Yes.

And with regard to all of the North American Light & Power securities that I have mentioned, and securities of

—6,900—

8453

subsidiaries of that company, it should be kept in mind that we did not acquire control until 1932.

Q. Now can you relate the total par or stated value of publicly held preferred stocks of subsidiaries of The North American Company on which arrearages now exist to the total par or stated value, in principal amount, of preferred stocks and funded debt of The North American Company, consolidated, outstanding in the hands of the public at December 31, 1940? A. Including the stocks of Illinois-Iowa Power Company, those stocks on which there are arrearages represent approximately 4.62 per cent. of the total par or

8454

stated value, in principal amount, of preferred stocks and funded debt, consolidated, of The North American Company and subsidiaries.

Q. Are the full dividends now being earned on the preferred stocks of North American Light & Power Company and Illinois-Iowa Power Company for the year 1940? A. Yes, they are, and in both cases.

Q. When were dividends first paid by The North American Company on its common stock? A. The first dividend on the common stock was paid in 1903.

Herbert C. Freeman—By Respondents—Direct

8455

Q. And what has been the record with respect to dividend payments on common stocks since that time? A. They have been paid continuously, either in cash or stock, each year for thirty-eight years, except for the year 1908. They

—6,901—

were omitted in 1908 because of the panic in 1907 and the business depression that followed.

The amounts paid in per cent. of par or stated value have ranged from 3.75 per cent. to 16 per cent.

Q. And as to the aggregate payments in cash on the common stock of The North American Company, what has the total been since 1903? A. The total cash dividends to December 31, 1940 have amounted to \$97,071,845.77.

Q. And have there from time to time during the company's existence been dividends paid in other securities, other than common stock? A. There was a dividend paid in 1922, in preferred stock.

Q. Of The North American Company? A. Of The North American Company.

And in 1939 and 1940, dividends were paid in participating units for common stock of Washington Railway and Electric Company. These dividends, together, had a cash value at the date of declaration, of about \$4,100,000.

Q. Now, as to dividends paid on common stock in common stock, what has been the total number of shares of common so issued? A. From 1923 to 1934, 5,489,235.945 shares of common stock were issued as dividends on the common stock, resulting in a charge to earned surplus of a total

—6,902—

amount of \$59,853,941.80.

8458

Herbert C. Freeman—By Respondents—Direct

The market value of those shares, based on the closing prices at December 31, 1940, amounted to \$91,258,547.59.

Q. Now, that aggregate figure which you have just given is based on market price at December 31, 1940 and not at time of declaration, is that correct? A. That is true.

Q. As to dividends paid on outstanding preferred stocks of The North American Company, what has been the aggregate amount of such payments? A. On the 6 per cent. preferred stock, the dividends have aggregated \$33,056,026.25, 8459 to January 2, 1941; and on the 5.75 per cent. preferred stock, the dividends have aggregated \$3,827,068.06 to that date.

Q. Those figures in each case represent actual cash payments, do they not? A. Yes, those dividends have been regularly paid each quarter since the stocks were issued.

Q. Was there a reclassification of common stock in 1901? A. Yes, in 1901 the common stock was reduced to 30 per cent. of the amount previously outstanding; that is to say, one new share of common stock was issued for each $3\frac{1}{3}$ shares theretofore outstanding.

—6,903—

8460

Q. Will you illustrate the growth in value, based on market prices of an investment made subsequent to the date of that reclassification which you have referred, in terms of present value? A. Assuming that an investor at that time had bought 100 shares of stock and had retained all stock dividends received since that time and had exercised all his rights to subscribe to new stock, the results would have been as follows:

The original investment would have cost him \$92.50 for each share of the par value of \$100, that is, \$9,250 for a

Herbert C. Freeman—By Respondents—Direct

8461

100-share investment. The exercise of rights to subscribe for additional common stock would have called for an additional investment by him of \$14,500, so that his total investment would have been \$23,750.

On that investment, he would have received, to January 1, 1941, cash dividends on the common stock of an aggregate of \$52,897.37, and cash dividends on the preferred stock of \$10,759.50—

Q. (Interposing) The preferred stock to which you have referred being preferred stock received during the course of the period as dividends on common stock or as a result of a reclassification of common stock held, is that right? A. That is right, yes, sir. So that his total cash dividends would have been \$63,656.87.

8462

—6,904—

He would also have received special dividends paid in 1939 and 1940, in participating units, for common stock of Washington Railway and Electric Company, a total of 133 units, with a value at the date of declaration, of \$2,348.50; so that he would have received in dividends in cash and securities of other companies, of an aggregate amount of \$66,005.37.

8463

Q. Now, what rate of return does that indicate on the original investment? A. The average years invested, the weighted average of his investment, to January 1, 1941, would be 32.61 years.

Q. Do you mind explaining your use of the term "weighted average"? A. That is arrived at by taking the number of years for which each individual amount which he invested has been invested from the time of the investment

8464

Herbert C. Freeman—By Respondents—Direct

to January 1, 1941, and dividing by the total amount of the investment.

That average is 32.61 years; so that the dividends in cash and securities of other companies would represent a return of 8.5 per cent. per annum from December 31, 1901 to January 1, 1941, on the average yearly invested capital.

8465

Q. Now, what would be the market value at December 31, 1940 of the securities now represented by the original investment so made in common stock? A. The investment would now be represented by 4,457 shares of common stock, of \$10 par value, and 184 shares of 6 per cent. preferred stock, of

—6,905—

\$50 par value. Valuing those at the market values at December 31, 1940, that is to say, 16 $\frac{1}{8}$ for the common and 57 for the preferred, would give a value of \$74,097.63 for the common and \$10,488 for the preferred, a total of \$84,585.63; so that the total market value at December 31, 1940 is more than three and one-third times the amounts of his original cash investment.

8466

Q. The figure of current market value which you have given, I take it, is in addition to the amount of dividends received on the original investment, either in cash or in participating units of Washington Railway and Electric Company? A. That is correct.

Q. Now, are you able to state the current rate of return on the present market value of the original investment to which you referred? A. The current rate of return, that is, for this purpose treating common stock dividends at the rate recently paid, of \$1.20 a share, represents a little over 7 per cent. on the market value of the stocks held, taken at December 31, 1940 prices.

Herbert C. Freeman—By Respondents—Direct

8467

Q. You have spoken of the stock dividend policy of The North American Company over a period of years. What was the significance of this policy in the operations of The North

—6,906—

American Company system? A. It was a policy that had a very great effect upon the development of The North American Company and its subsidiaries. It was of the greatest possible importance in their development, because it permitted of the retention in the system of all of the earnings during that period, with the exception of those required to pay the dividends on the securities of the subsidiary companies and on the preferred stock of The North American Company.

8468

Now, during the period from 1923 to 1934, inclusive, the consolidated income of The North American Company, after provision for preferred stock dividends of subsidiaries and minority interests in subsidiaries, but before provision for The North American preferred dividend, amount to an aggregate of \$215,148,003.26.

That does not include the undistributed income of the Washington Railway and Electric Company during the period from the time of its first acquisition to the first time it was taken in as a consolidated subsidiary, and that amounted to \$6,700,199.69. That is the portion applicable to The North American holdings of the common stock of that company.

8469

Adding that amount gives a grand total of \$221,848,202.95.

The cash dividends paid on the preferred stock of The North American Company and the dividends which were

8470

Herbert C. Freeman—By Respondents—Direct

paid in 1934, in cash, as I have previously mentioned, on the common stock, for the entire period amount to \$27,126,480.08; so that there was retained in The North Amer-

—6,907—

ican Company and its subsidiaries an aggregate of \$194,721,722.87.

Now, there were certain charges and credits to surplus, both of the subsidiary companies and of The North American Company during that period, which affects that balance 8471 that was originally transferred to surplus from income; but the net additions to surplus during that entire period—

Q. (Interposing) That is 1923 to 1934? A. Inclusive, yes, amounted to \$66,369,286.91, as to surplus of subsidiaries; and \$96,212,173.70, as to The North American Company, but as to that figure, with respect to The North American Company, \$59,853,941.80 was transferred to capital and capital surplus, and the remainder—the transfer to capital and capital surplus represented the capitalization of the stock dividends paid—and the remainder of \$36,358,231.90 remained in earned surplus; so that after all surplus charges, other 8472 than those with respect to the issuance of stock dividends, \$162,581,460.61 was allowed to remain in the consolidated enterprise, which represented \$29.62 of net assets per share on each of the 5,489,236 shares of common stock issued as stock dividends during that period.

Q. What was the effect on the operations of the system of retaining this surplus within the system? A. It provided that amount of capital for improvements and additions and

—6,908—

for the acquisition by The North American Company of additional investments, without the necessity for any financing.

Herbert C. Freeman—By Respondents—Direct

8473

Q. What was the carrying value at December 31, 1940 of the investments held by North American? A. The total carrying value of investments at December 31, 1940, was \$288,285,708.19.

Q. Now, does this figure include advances to subsidiaries, consolidated? A. It includes advances to subsidiaries, consolidated, not current, amounting to \$5,008,328.68.

Q. And does it exclude certain short-term investments? A. Yes, there were in addition short-term investments carried at \$501,35.54; so that the carrying value of investments, applying adjustments for those two figures I have mentioned, at December 31, 1940, was \$283,277,079.51.

8474

Q. You stated, previously, certain periods in the company's history with respect to issuance of securities. Are there other recognizable periods which can be stated with respect to acquisition of public utility subsidiaries? A. There are, broadly, four main periods. There is the initial periods, from 1890 to 1903, when The North American Company acquired its initial investments in the Wisconsin-Michigan area, in St. Louis, and the minority investment in Detroit.

8475

—6,909—

In the properties centering around Milwaukee, the company had acquired an interest at its formation, in 1890. It had increased that investment to approximately 88 per cent. of the stocks of the company operating in Milwaukee by 1895, and by 1905 it owned 100 per cent.

In St. Louis, its first investment was in 1901, and it owned substantially all of the stock of the company operating there by 1906.

8476 *Herbert C. Freeman—By Respondents—Direct*

The minority investment in Detroit, acquired in 1903, represented 14.73 per cent. of the stock of that company.

Q. Outstanding at that date? A. Outstanding at that date.

The Wisconsin group was increased in 1912 by the addition of Wisconsin Gas & Electric Company.

Q. Now, what was the next period of major growth in the ownership of public utility subsidiaries? A. The next period of its large expansion was from 1922 to 1928. That

8477 included the acquisition of control of The Cleveland Electric Illuminating Company, in 1922, and a small investment in Washington Railway and Electric Company, in 1924, a further investment in 1925, and control of that company in 1928.

Then our present minority interest in the Pacific Gas & Electric Company is related to this period, through the acquisition in 1925 of control of Western Power Corporation.

—6,910—

During this same period, we acquired 42.5 per cent. of the voting stock of North American Light & Power Company, 8478 in 1926, which was at that time intended as a minority investment to aid in the development of the Midwestern territory.

Then in 1920 we organized Wisconsin Electric Power Company.

Q. Is that the old— A. (Interposing) That is the old company of that name.

Q. And why was that company organized? A. It was organized for the purpose of constructing the Lakeside power plant, which was leased to the Milwaukee Electric Railway

Herbert C. Freeman—By Respondent—Direct

8479

& Light Company, the present Wisconsin Electric Power Company.

Q. The capital for this company was supplied, was it, by The North American Company direct? A. The equity capital was; and the company was financed by senior securities.

At that time, the Milwaukee Electric Railway and Light Company would not have been in a position to finance the construction of the building of that station, itself; but in 1938, in connection with the refinancing of The Milwaukee Electric Railway and Light Company, the stock of Wisconsin Electric Power Company was acquired by that company and the companies were merged:

8480

Q. In other words, at that time North American sold its

—6,911—

interest in the old Wisconsin Electric Power Company to the company now named Wisconsin Electric Power Company, is that right? A. That is correct, yes.

8481

Q. And during the period, did The North American Company also organize the company then known as Union Electric Light & Power Company of Illinois? A. That company was organized in 1923, for the purpose of constructing the power plant at Cahokia. That plant was operated by a subsidiary of the Union Electric Light & Power Company of Missouri, as it was then called, under lease.

Now, the stock of that company was sold by The North American Company to the Union Electric Company of Missouri in 1928.

Then in 1925, The North American Company acquired control of the Mississippi River Power Company, and the

8482

Herbert C. Freeman—By Respondents—Direct

stock of that company was ~~turned over to~~ the Union Electric Company of Missouri in 1926.

Q. Now, in the case of these three transactions of which you have spoken, involving the disposition by North American of Wisconsin Electric Power Company, Union Electric Light & Power of Illinois, and Mississippi River Power Company, what was the basis on which the ownership of those companies was transferred to the company acquiring the same?

8483

In the case of the stock of Wisconsin Electric Power

—6,912—

Company, it was transferred to the Milwaukee Electric Railway and Light Company, at the aggregate of the capital plus accumulated surplus of that company up to the date of transfer, and the Milwaukee Company paid for it in its preferred stock, which was acquired at that time by The North American Company.

Q. In other words, am I correct in understanding that the basis was cost plus earned surplus since date of acquisition? A. That is correct.

8484

In the case of Union Electric Light & Power Company of Illinois, the basis was the same; it was turned over at the cost to The North American Company plus the undistributed earnings of Union of Illinois up to the time of the transfer.

In the case of Mississippi River Power Company, the basis was a little different. The North American Company had acquired some of the stock of Mississippi River Power prior to 1925, and on the cost of that stock North American received in addition to cost, 6 per cent. carrying charges on

Herbert C. Freeman—By Respondents—Direct

8485

cost, and as to the stock acquired, I believe it was in August, 1925, which was acquired by an exchange of stock of North American for the stock of Mississippi River Power Company, common stock of North American, there was a short period, I believe from August to December, 1925, for which Union of Missouri paid North American the equivalent of the dividends on the stock issued by North American in acquisition of the remaining stock of Mississippi River Power Company.

—6,913—

Q. Now, during this period of which you have been speaking, was there also the acquisition of the properties now constituting Wisconsin Michigan Power Company? A. Yes, those properties were acquired in 1924.

8486

Wisconsin Michigan Power Company was formed as a reorganization of Peninsular Power Company, and at the time of the reorganization, various properties which had been acquired by the North American Company were merged with Peninsular Power Company.

In that case, the properties were taken over by the present Wisconsin Michigan Power Company, on the basis of a valuation of the properties which was approved by the Wisconsin Commission, and the Michigan Commission.

8487

Mr. Hamilton: This is a good breaking point, Mr. Examiner.

The Examiner: All right, we will recess until two o'clock.

(Whereupon, at 12:22 o'clock p. m., the hearing was recessed to reconvene at 2:00 o'clock, p. m. of the same day.)

—6,914—

8488

Herbert C. Freeman—By Respondents—Direct

(2:00 P. M.)

AFTERNOON SESSION

The Examiner: All right, gentlemen, let us resume.

Whereupon, HERBERT C. FREEMAN, having been previously sworn, resumed the stand and testified further as follows:

8489

Direct Examination by Mr. Hamilton (Continued):

Q. You had testified this morning, Mr. Freeman, as to certain acquisitions of subsidiary companies during the period of 1920 to 1928.

Subsequent to 1928 were there any additions of public utilities subsidiaries to The North American System? A. No actual public utility subsidiaries; however, there was the acquisition of control of North American Light and Power in 1932, due to the fact that Middle West were unable 8490 to live up to their obligations to take the additional stock offered from year to year and North American had to take it.

Q. I think Mr. Van Wyck has described the circumstances surrounding that transaction? A. Yes.

Q. Now, as to non-utility subsidiaries, will you state the time of acquisition of companies of that character which have entered into the system? A. In 1905, the control of West

—6,915—

Kentucky Coal Company was acquired. That was originally

Herbert C. Freeman—By Respondents—Direct

8491

acquired with the idea of using it as a source of coal supply for the St. Louis Subsidiaries. As a matter of fact, however, the subsidiaries of North American have taken a comparatively small amount of coal from that property for a number of years and its sales are almost entirely to outsiders.

In 1924, North American Company acquired control, in fact acquired all of the outstanding stock of Sixty Broadway Building Corporation, in which the offices of the company are located, their idea being that apart from it being a good investment, it acted as a protection against possible rent increases and gave office facilities for the company.

Then, in 1924, a company was organized, known as North American Utilities Securities Corporation, as a medium of investment of surplus funds for the North American Company and also to increase the diversification of The North American holdings and engage some additional outside capital.

Q. In general, what have been the characteristics of North American's investment policy over a period of years? A. The most outstanding characteristic, I would say, is the long-term character of the holdings. We have Wisconsin Electric Power, dating back to 1895, and from there, our acquisitions have covered the period up to 1924 and 1926 when we acquired Washington and North American Light

8492

8493

and Power Company, so the holdings have ranged from a period of fourteen to fifty-one years.

Now, another outstanding characteristic has been the diversification, the location in important industrial and other

—6,916—

8494

Herbert C. Freeman—By Respondents—Direct

types of territory in different parts of the country and the stability that has resulted from our investments being in large cities. Then, we have the further stabilizing influence of The North American investments in Pacific Gas and Electric and Detroit Edison, which represent additional diversification, and particularly in the holding of P. G. & E., giving us a somewhat more uniform rate of income than we have received from our direct operating subsidiaries.

8495

Q. You spoke of the investment in Wisconsin Electric Power as originating in 1895. You were referring to the reorganization which occurred at that time? A. Yes, it was about that time that we really acquired our one hundred per cent. control,—no, our eighty-eight per cent.

We acquired our first interest there in 1890, but it assumed the proportions of a major subsidiary, I would say, in 1895.

Q. Now, after the specific dates of original acquisition, of securities of the various public utility subsidiary compa-

—6,917—

8496

nies, have there been substantial amounts invested by North American in those companies? A. Yes, the amount of additional investment has been very much greater than the original cost of acquiring the securities which gave us control.

The cost of original acquisitions has amounted to \$94,839, 116.06, and by original acquisitions I mean the purchase of the securities of existing companies which now represent our investment.

In addition to that, we have acquired properties which have been merged into, or consolidated with, properties which we already owned and our investment in those has amounted

Herbert C. Freeman—By Respondents—Direct

8497

to \$74,811,965.98. In each of those cases, part of the investment has been in cash and part through the exchange of securities,—we have issued stock of North American.

Q. And in computing your composite figure, what value have you given the stock of North American Company issued in connection with those acquisitions? A. The value we have given to it has been based on the market price at the time of issuance, but it has not exceeded the market price, and in some cases, I would say that it ~~has~~ been stated at less than the market price. As a matter of fact, however, the proportion of those original acquisitions and of the subsequent acquisitions of properties which have been merged in with the

8498

—6,918—

original acquisitions, represented by securities acquired for the stock of The North American Company, has only been about twenty-five per cent. of the total, or, about seventy-five per cent. has been represented by actual cash invested.

In other words, taking those two groups together, there is over \$124,000,000.00, that represents cash,—and \$45,000,000.00 represents securities acquired in exchange for stock of North American.

8499

Then, there has actually been invested in additional issues of stock of the companies after their original acquisition, a total of \$146,535,670.93.

Now, against these costs of acquisition, there have been cases in which companies have been recapitalized on a basis which gave The North American Company some senior securities and some junior securities and in those cases, the senior securities have been sold and in other cases we have sold the properties which we have acquired to other subsidiaries

8500 *Herbert C. Freeman—By Respondents—Direct*

and there have been outright sales of securities to outsiders and the aggregate of all this is \$36,375,583.03.

Then, at different periods during the life of the company, securities have been revalued and the net effect, at the present time, of those revaluations is that our investments have been written-down by a net amount of \$14,264,616.06. Those are the write-downs of securities which we now hold.

—6,919—

8501 Q. Now, during the period in which the subsidiaries of North American Company have been subsidiaries, have large amounts of undistributed earnings been retained by those subsidiaries? A. Yes. Since the acquisition of the securities of our subsidiaries, I am excluding now North American Light and Power Company and North American Utilities Securities Corporation, the amounts of undistributed earnings which we have left in the subsidiaries have totaled \$64,115,300.00.

Now, that is in addition to amounts of undistributed earnings of subsidiaries which have been capitalized and which have been treated as additional cost of investment in the subsidiary companies. That amounts to \$16,156,849.32, and that amount is not included in the cost of the properties which I have mentioned above, which represented direct outlay, but it is included in the carrying values of the securities at the present time and is a proper addition to the cost of those securities from an accounting point of view.

Q. Now, in order to make it clear, your last statement, as I understand it,—these figures for undistributed earnings retained excluded any amount of earnings which may have

Herbert C. Freeman—By Respondents—Direct

8503

been retained by subsidiaries of North American Light and Power Company—is that right? A. Yes.

—6,920—

Q. Does that also exclude earnings which may have been retained by Detroit Edison and Pacific Gas and Electric Company? A. Yes.

Q. What is North American's policy with respect to the value at which its investments are carried? A. The policy of North American has been to carry investments at cost, or less.

8504

Q. Well now, Mr. Freeman, will you explain what you mean by that? A. The cost has been regarded as including actual cash investment and a valuation based on market, as I explained before, of securities of North American issued for the purpose of acquiring other securities of subsidiaries on an exchange basis and it also includes the items I have mentioned before, of surplus of subsidiary companies which have been transferred from their surplus to their capital accounts and which is regarded as additional cost to North American of those investments.

Q. Now, in certain instances, have investments been written down below cost? A. Yes, there have been some cases of investments which have been written down.

For example, North American Light and Power Company had accumulated a deficit up to December 31, 1937, applicable

8505

—6,921—

to the holdings of North American in the stock of that company; amounting to \$7,918,204.50, and at that time, we wrote down our investment in the common stock of North American Light and Power by that amount and, in effect, took up that amount of loss.

8506

—Herbert C. Freeman—By Respondents—Direct

In the case of North American Utilities Securities Corporation, the investments held by that company had depreciated in value as a result of the market slump and in March of 1933 we wrote-down the carrying value of our investment in the preferred stock of that company by \$4,296,242.62, which was equivalent to the amount by which North American Utilities Securities Corporation, at that time, wrote-down its investment. That amount was written off against reserve for contingencies which had previously been provided from earned surplus.

8507

That amount, incidentally, was the proportion of the write-down of the investments of N. A. U. S. applicable to holdings of North American and excluding the proportion applicable to the holdings of the minority common stockholders.

Q. In the aggregate, is the underlying assets value of securities of subsidiaries owned by North American Company in excess of the carrying value of such securities? A. Yes, it is substantially in excess.

Q. Is that also true as to the investment in Pacific Gas and Electric, and Detroit Edison, and Washington Railway

8508
—6,922—
and Electric? A. Yes, that is true in the case of those investments, also.

Q. Now, you spoke, I believe, of the existence of a net write-down on the books of North American and mentioned a figure. Will you explain that reference, further? A. That write-down has been the result of a number of transactions over the entire life of the company. At one time, there had been some write-ups on the books of the company, —

Herbert C. Freeman—By Respondents—Direct

8509

Q. (Interposing) At what time was this? A. Those write-ups had all occurred prior to 1917. There have been no write-ups on the books since 1917,—and, at that time, the net write-ups amounted to \$5,298,295.75.

The maximum amount of write-ups at any time on the books of The North American Company was \$9,803,646.60, on December 31, 1906, and that has all now been offset by subsequent write-downs. It has not only been entirely eliminated, but the write-downs are now \$14,000,000.00 in excess of any previous write-ups.

Q. And at what date did net write-downs exist, as a positive figure? A. Well, there was an excess of write-downs first at December 31, 1934.

—6,923—

Q. And that situation has continued without interruption since that date? A. That is so, yes.

I don't know if I have mentioned before the exact figure of the write-down.

Q. If you will, please. A. December 31, 1940—\$14,264,616.06.

Q. Now, with reference to the investment of The North American Company and Detroit Edison Company, will you state the number of shares owned by North American at December 31, 1940? A. At December 31, 1940, the North American Company owned 244,463 shares of Detroit Edison common stocks. They were carried on the books of North American at \$29,822,316.04.

Q. What was the relation of the market price at that date to the then carrying value? A. The market price at December 31, 1940, based on the last sale, was 118, and at

8511

8512

Herbert C. Freeman—By Respondents—Direct

that price, the investment amounted to a value of \$28,846,634.00 which is about a million dollars below the carrying value. The carrying value of Detroit Edison, on the books of North American, represented ten per cent. of the corporate assets shown by the books at that date and the market value of Detroit Edison represented eight and eight-tenths per cent. of the combined market value of listed securities owned at that time and the carrying value of securities not

—6,924—

8513 listed.

Q. Now, what was the income received from this investment for 1940, and the relation of that income to gross income of North American for the year? A. The income for 1940 from Detroit Edison stock was \$1,466,778.00, which represented six and eight-tenths per cent. of North America's corporate gross income for that year.

Q. Are these figures which you have given as to Detroit Edison exclusive of holdings of stock of that company by N. A. U. S.? A. Yes, in each of these figures which I have mentioned, I have excluded one thousand shares of Detroit Edison which were held by North American Utilities Securities at December 31, 1940. They were carried by North American Utilities Securities at a carrying value of \$70,500.00.

Q. As to the investment of North American in Pacific Gas and Electric, will you give us similar information with respect to it? A. At December 31, 1940, North American held 2,002,770 shares of Pacific Gas and Electric Company common stock which were carried by North American at \$63,765,418.62. The market price of Pacific Gas and

Herbert C. Freeman—By Respondents—Direct

Electric, at that date, was twenty-seven and one-half. That is based on the last sales price and at that price, the investment amounted to a value of \$55,076,175.00. The carrying

—6,925—

value of this investment represented twenty-one per cent. of North American's corporate assets as shown by the books and the market value, which I have mentioned represents sixteen and eight-tenths per cent. of the combined market value of listed securities and the carrying value of securities not listed.

Q. Again, as of December 31, 1940? A. Yes.

Q. Now, will you state the amount of income received from this investment by North American for the year 1940? A. In 1940, North American received \$4,005,540.00 in dividends on Pacific Gas and Electric common stock. That figure represented eighteen and one-half per cent. of North American's corporate gross income for the year.

Q. Are these figures which you have given as to the investment in Pacific Gas, exclusive of holdings in that company by North American Utilities Securities? A. Yes, they are. North American Utilities Securities, at December 31, 1940, held fifty-six thousand, nine hundred shares of Pacific Gas and Electric common, which were carried by them at \$1,254,582.30 and those figures are not included in the figure I have mentioned for the North American Company.

Mr. Hamilton: Please mark this table for identification as Respondents' Exhibit No. 126.

—6,926—

(The document referred to was marked for identification as Respondents' Exhibit No. 126.)

8518 *Herbert C. Freeman—By Respondents—Direct**By Mr. Hamilton:*

Q. Will you state what this exhibit represents, Mr. Freeman? A. This exhibit represents a statement for the years 1936 to 1946, inclusive, by years, of the dividends received from Pacific Gas and Electric Company and the Detroit Edison Company by The North American Company, and a statement for each of those years of the gross corporate income of The North American Company and of the debenture interest and preferred dividends of The North American Company.

8519

Q. This exhibit has been prepared under your direction, has it? A. Yes.

Q. And the facts shown, taken from the records of The North American Company? A. Yes, sir.

Mr. Hamilton: I offer it in evidence as Respondents' Exhibit No. 126.

Mr. Binford: No objection.

The Examiner: It is received under the number mentioned.

8520

(The Respondents' Exhibit No. 126, received in evidence.)

—6,927—

By Mr. Hamilton:

Q. Now, I believe you testified, Mr. Freeman, that the first acquisition of stock by North American in Detroit Edison dated back to 1903 and I believe you also gave a percentage to the total stock outstanding of the Detroit Edison represented by that original investment? A. Yes.

Herbert C. Freeman—By Respondents—Direct

8521

Q. In general, has that relative percentage continued in substantially the same percentage since the date of original investment? A. It has somewhat increased over the years. The percentage owned at the close of the year, 1963, was 14.73 per cent. of the outstanding stock of Detroit Edison Company.

At the present time, the percentage owned represents 19.29 per cent., that latter figure does include the one thousand shares of stock owned by North American Utilities Securities Corporation.

8522

The holdings have not at any time exceeded, at the end of any year, 19.59 per cent., which was at the end of 1928.

Q. I do not believe this record shows the particular service territory of Detroit Edison.

From your information as to the company, could you state, very briefly, and without detail, the general location of the service territory of this company? A. It covers an area around Detroit, Michigan, in the southeastern part of

—6,928—

the State and extending up into what is known as the "Thumb" of Michigan. I can't give the exact area covered, but it is substantially the southeastern portion of the State of Michigan.

8523

Q. Now, have you stated the first date at which an interest in the common stock of Pacific Gas and Electric Company was acquired by North American? A. The acquisition of our holdings in Pacific Gas and Electric resulted from the acquisition by us in 1925 of the control of Western Power Corporation.

8524

Herbert C. Freeman—By Respondents—Direct

Western Power Corporation owned Great Western Power Company, San Joaquin Light and Power Company, and Midland Counties Company. The Great Western Power Company served a territory that was, to a great extent, included in the service territory of the Pacific Gas and Electric Company. There was competition between the two companies. The San Joaquin property adjoined the Southerly end of the service territory of Pacific Gas and Electric. At the time we acquired control of Western Power Company, that company had a number of projects under way.

8525

Q. By "that company" you refer to what? A. Western Power Company, which called for the expenditure of very considerable amounts of capital so that during the period from 1925 to—well, to the end of 1929 and the beginning of 1930, that company had invested approximately

—6,929—

8526

\$27,000,000.00 in additions and improvements to its subsidiary companies and the greater part of that was represented by indebtedness of Western Power Corporation to The North American Company.

For example, they had begun the construction of a tie line from Sacramento, one hundred and four miles south to Merced, in the Southern part of the territory. The purpose of that tie-line was to enable current generated during the early spring run-off in the San Joaquin territory, which was uncontrolled, to be used for generation of current that could be used by Great Western in serving its territory and enabling Great Western to conserve water in its own reservoirs in the North, where the water was controlled. At the same time, Great Western was raising what was known

Herbert C. Freeman—By Respondents—Direct

8527

as the "Big Meadows" dam in the upper reaches of the Feather River, forty-five feet which increased the storage capacity of Lake Almanor from about three hundred thousand acre feet to one million, three hundred thousand acre feet. That water discharges through the North Fork of the Feather River.

They had also entered into a contract with the Feather River Power Company for the construction of a forty thousand kilowatt plant at Bucks Creek, which was to be operated by Great Western under a lease. They were also building a plant known as the Balch plant on the Kings River in the San Joaquin territory and they were building a thirty-five thousand,—that was a thirty-five thousand kilo-

8528

—6,930—

watt plant,—and they were building a thirty-five thousand kilowatt steam plant in San Francisco in order to have firm power near their largest point of demand.

Now, all of those improvements fitted in perfectly with the requirements of Pacific Gas, and the two properties, in a sense fitted together like a hand and a glove so that it was a very definite achievement in the direction of integration to bring those two properties together.

8529

—6,931—

We started negotiations with Pacific Gas in 1929 and they were continued, and concluded about March, 1930.

Q. By "we", do you refer to Western Power Corporation?
A. Really, the North American Company, speaking for Western Power Corporation, and the necessary Commission approvals were obtained and the transaction was closed on the 12th of June.

8530

Herbert C. Freeman—By Respondents—Direct

Now, as a result of that transaction, the outstanding securities and advance accounts of the subsidiaries, the operating subsidiaries of Western Power Corporation which amounted to approximately \$67,800,000, were acquired by Pacific Gas against the issue to us, to Western Power,—I should say,—in that case, of 1,825,000 shares of its common stock with a par value of \$25 a share.

Q. The stocks of Pacific Gas & Electric Company? A. Yes, which represented a par value of \$45,625,000, so that 8531 there was an actual reduction in outstanding capitalization by this transaction of over \$22,000,000.

Q. On the books of Pacific Gas & Electric? A. Yes, on a consolidated basis.

In addition to the \$23,700,000, approximately, by which the investment in the subsidiaries of Western Power Corporation had been increased during our period of ownership, the North American Company provided funds for the retirement of senior securities of Western Power Corporation which amounted to over \$15,000,000,—approximately \$15,

8532

500,000,—so that we had improved the situation during our period of ownership by approximately \$39,200,000.

The whole result of the transaction was a very constructive job.

Q. From whose standpoint? A. A rounding out of the territory of Pacific Gas & Electric which was regarded with very considerable favor in that State, and I would like to add that, at this point, that those negotiations were conducted entirely upon the basis of our relinquishing our holding company situation with regard to the Western Power

—6,932—

Herbert C. Freeman—By Respondents—Direct

8533

properties and becoming investors in the common stock of Pacific Gas.

Q. Well, now, would it be accurate to summarize this transaction by saying that the transaction resulted in a shift from properties possibly controlled by North American to an investment in securities of Pacific Gas & Electric Company? A. That is exactly what happened.

Q. Now, you stated that a certain number of shares of Pacific Gas & Electric were received by Western Power in connection with this transaction.

8534

Under what circumstances did all, or part, of those shares come to North American at a subsequent date? A. A Part of them came to North American as the result of an offer made by Western Power Corporation to its stockholders of

—6,933—

a portion of those shares at a price below the market, to provide funds for the retirement of senior securities of Western Power, and the balance came to North American upon the liquidation of Western Power.

Q. And approximately what was the extent or number of shares so acquired by North American directly upon the liquidation of Western Power Corporation? A. I should mention that in the meantime, there had been an additional issue of stock of Pacific Gas & Electric. Of the 1,825,000 shares of common stock received by Western Power Corporation, 804,580 shares were acquired by the North American Company at the time of this offering and 365 shares were acquired by minority stockholders of Western Power Corporation. That left Western Power Corporation with about 1,020,000 shares, and in 1931, that corporation subscribed

8535

8536

Herbert C. Freeman—By Respondents—Direct

for 102,005 shares of original issue by Pacific Gas & Electric, and at the same time, the North American Company acquired 80,445 shares of original issue.

At the time of the liquidation of Western Power Corporation, which occurred in 1936, that corporation had 1,112,060 shares, of which the North American Company received 1,110,786.31 shares, on liquidation, and the balance went to minority stockholders.

8537

Q. Those are shares of Pacific Gas & Electric you are referring to now, are they not? A. Yes, I beg your pardon,—

—6,934—

I said the balance were transferred to minority stockholders, —in addition, the North American, itself, delivered a small number of shares as an adjustment to some of them, upon the liquidation.

8538

Q. Now, what benefits, if any, accrue to North American by reason of the ownership of these two minority investments to which you have been testifying? A. The chief benefit, I would say, was stabilization of income, and that is particularly true with respect to holdings of Pacific Gas & Electric Company stocks. The dividend on that stock, at the time it was acquired, was at the rate of 8 per cent. per annum. That was reduced to 6 per cent. in the latter half of 1933, and it was restored to 8 per cent. again in the last quarter of 1936, so that the income from that holding was comparatively stable.

The dividends on Detroit Edison have not been quite so stable. They were also at the rate of 8 per cent., up to 1932, or '33, and then dropped to 4 per cent., and they have now been increased to 6 per cent. per annum.

Herbert C. Freeman—By Respondents—Direct

8539

Q. Since you are speaking in terms of percentages, perhaps you had better state the par value of the securities of each company, if you will? A. The par value, in the case of Pacific Gas & Electric, is \$25, so the 8 per cent. represents a \$2 dividend; in the case of Detroit Edison, the par value of it is \$100 per share, but the stabilizing influence of those

—6,935—

dividends on the income of North American have been quite appreciable over this period in 1933 and 1934 when the income fell off quite badly from operating subsidiaries.

8540

I might indicate that further in this way: The five-year reported earnings per share of Detroit Edison, from 1936 to 1940, ranged from \$6.16 per share to \$8.39; and for that same period, the reported earnings per share ranged from \$2.55 to \$2.84 per share.

Q. Now, the latter reference was to Pacific Gas & Electric, was it not? A. Pacific Gas & Electric,—yes.

Of course, in our income we take up only the dividends actually paid.

Detroit Edison, of course, represents diversification to a considerable extent, as against our other properties. It is, perhaps, affected a little more definitely by changes in industrial condition than our other properties and will also have higher earnings in periods of good industrial activity.

8541

It more nearly approximates Cleveland in that respect. Pacific Gas is a different type of company. It appears that the Pacific Coast does not respond as quickly to changes in business conditions as the rest of the country. There is generally a lag there and when the change does come, it is

8542

Herbert C. Freeman—By Respondents—Direct

not quite so violent as it is in the rest of the country, so, the

—6,936—

two, together, are somewhat complementary and the large holding in Pacific Gas particularly stabilizes the situation.

Q. Does North American take the position that it does not control Pacific Gas & Electric Company? A. It never has controlled Pacific Gas & Electric Company.

Q. Does the North American System similarly take the position that it does not control Detroit Edison Company?

8543 A. Yes, the same is true with respect to that company.

Q. Does the existence of these holdings, these investments, by North American impair the operation of the utility subsidiaries of North American Company? A. Not in any sense. The operations of Pacific Gas have no relation whatever to those of our other subsidiaries.

8544

The operations of Detroit Edison, as such, have no relation, but with Detroit, there has been a certain comity, you might say, between the management of that company and the management of our other companies which has led to an interchange of information, figures as to cost and things of that kind, and an exchange of experiences and engineering records, but there is no other effect upon the operations of our subsidiaries.

Q. Has that interchange, as to Detroit Edison, been of value to the North American System? A. I would say quite definitely that it has been of value.

—6,937—

Q. What members of the North American organization, as such, devote time and effort to the matters of Detroit Edison and Pacific Gas? A. Mr. Fogarty, who is Chairman of

Herbert C. Freeman—By Respondents—Direct

8545

the Executive and Finance Committee of the North American Company, is a Director of the Detroit Edison Company and spends such time as a Director is required to spend on the business of a company.

Apart from that, the other members of the organization examine the monthly income statements and keep posted as to the developments with regard to Detroit Edison, on account of the investment we have in that company.

The amount of time required is, I would say, inconsequential in relation to the total business.

8546

As far as Pacific Gas & Electric is concerned, Mr. Fogarty and I are both Directors of that company and as such, we receive copies of their Minutes, both of the Board of Directors and of the Executive Committee. The Executive Committee Minutes are sent to us as a matter of courtesy, and we also receive the weekly reports of the electric and gas output, precipitation reports, the reports of expenditures for improvements and additions authorized by the Executive Committee, and the monthly income and balance sheet and statistics.

8547

As far as I, personally, am concerned, I study all of those reports, and the amount of time consumed is not very great.

—6,938—

Neither Mr. Fogarty nor I have visited California for the purpose of attending meetings of Pacific Gas & Electric Company.

Q. In your own case, does the time which you devote to the matters of Detroit Edison and Pacific Gas impair or impede the attention which you devote to the matters of the public utility subsidiaries of North American Company? A. I would say,—not at all.

8548

Herbert C. Freeman—By Respondents—Direct

Q. From your own observations, and speaking more broadly, does the attention which members of the North American organization devote to the matters of Detroit Edison and Pacific Gas & Electric impede or impair the attention which they devote to the matters of public utility subsidiaries of North American Company? A. No,—not at all.

Q. You have referred, from time to time, to North American Utilities Securities Corporation in your testimony.

8549

Will you state the date of incorporation, State in which incorporated, and the business performed by that company?

A. North American Utilities Securities Corporation was organized in December, 1924, under the laws of the State of Maryland to engage in a general investment company business, of the management type.

Q. It is a direct subsidiary, is it, of North American? A. Yes.

—6,939—

By Mr. Hamilton:

8550

Q. Now, I think you stated the original purposes for which this company was formed. Will you state what business it does presently? A. At the present time, the company is in an almost static condition, on account of the situation brought about by the registration of North American under the Holding Company Act.

Mr. Hamilton: Will you read back the answer, please.

(The answer of the witness was read back by the reporter.)

Herbert C. Freeman—By Respondents—Direct

8551

By Mr. Hamilton:

Q. Now, in order to get an idea of the function of this company in the holding company system, will you state the original capitalization of North American Utilities Securities? A. It was originally organized with two classes of preferred stock and common stock.

The first preferred stock was a \$6 preferred stock, and the second preferred stock a \$7 stock.

The \$6 preferred stock was first offered through underwriters, to the extent of 100,000 shares, with 100,000 shares of common stock, in units of one share of each stock at \$100 a unit.

8552

The North American Company took 60,000 shares of the second preferred stock and 400,000 shares of common stock, for \$6,000,000.

—6,940—

The units were originally part-paid, and it was intended to call the unpaid balance from time to time; but in 1927, the holders whose subscriptions were 50 per cent. paid were offered the opportunity to convert the units into fully paid stock, to the extent of 50 per cent. of the stock originally subscribed for by them, and as a result of that, the actual resulting capitalization was 66,548 shares of \$6 first preferred stock, 60,000 shares of second preferred stock and 466,548 shares of common.

8553

Of the first preferred stock, 43,584 shares were reacquired and retired by North American Utilities Securities Corporation in 1930, and the balance were redeemed at \$105 a share in 1931; so that there is now outstanding only 60,000 shares of second preferred stock and the common stock.

8554

Herbert C. Freeman—By Respondents—Direct

Q. Now, were certain holdings by The North American Company of the common stock of the North American Utilities Securities disposed of during the period, and if so for what purpose? A. In 1928 and 1929, there was considerable speculation in the common stock of North American Utilities Securities, and the price of the stock was becoming entirely out of proportion to its asset value. This was called to the attention of the Curb—

Q. (Interposing) By the "Curb" you refer to what? A. 8555 The Curb Exchange in New York. —and also the specialists,

—6,941—

but that seemed to have no effect; and The North American Company, in the interest of preventing the stock, the price of the stock from running away, sold 23,859 shares to try to bring about a more orderly market.

Q. Now, over a period of years, what have been the earnings per share on the now outstanding second preferred stock? A. Approximately \$4.50.

8556

Q. All this stock is owned by The North American Company, is it? A. Yes, sir.

Q. And there is currently an arrearage on this stock, is there? A. At December 31, 1940, there were arrears of \$25 a share, and at that date, based on current market quotations, there was no asset value for the common, and the second preferred stock would have been entitled on liquidation to approximately \$2,800,000 in excess of asset value, with securities valued on the market at that time.

Q. Now, will you indicate the net earnings of the company for 1940, in dollars? A. For 1940, the net earning

Herbert C. Freeman—By Respondents—Direct

8557

amounted to \$279,190. The only expenses that had to be provided for were taxes, of \$14,681, and miscellaneous expenses and interest, of \$1,775.

—6,942—

No officers' salaries have ever been paid by the corporation, and no directors' fees have been paid since June, 1938; and there are no other operating expenses.

Q. There is no investment advisory service employed by North American Utilities Securities? A. No.

Q. Or other servicing arrangement? A. No.

8558

Q. Very briefly, what is the general nature of the portfolio held by the company? A. It is a well diversified list of securities, representing referred and common stocks of about 120 companies, of marketable securities. The largest holding, which represents one-third of the total assets, is the 56,900 shares of common stock of Pacific Gas & Electric Company, which I have mentioned.

I can give an analysis of those securities, by classes of investment, at December 31, 1940.

Q. Very briefly, if you will. A. The market value at that time was \$4,667,865, which consisted of common stocks of railroads, to the extent of 3.37 per cent.; common stocks of utilities, 42.04 per cent.; preferred stocks of utilities, 1.10 per cent.; common stocks of industrials, 52.33 per cent.; preferred stocks of industrials, 1.16 per cent.

8559

—6,943—

Q. Have there, from time to time, been considered plans of liquidation of North American Utilities Securities? A. We have discussed plans for liquidating it several times, over the past two or three years, and we have submitted one of

8560 *Herbert C. Freeman—By Respondents—Direct*

those plans, informally, within the last two or three months, to the Securities and Exchange Commission, but—

Q. (Interposing) In general, what was the nature of that plan? A. The plan called, in general, for the surrender to the corporation by The North American Company of its second preferred stock, and part of its common stock, for assets of North American Utilities Securities, and for the retirement of those stocks by North American Utilities Securities.

8561 The basis upon which the surrender was to be made would have enabled North American Utilities Securities to liquidate, with a return of about \$1 a share to the holders of the common stock—

Q. (Interposing) The publicly held— A. (Continuing) —which represents the only outstanding interest in the hands of the public.

Q. To make clear your statement, is your figure of \$1 a share applicable to the publicly held common stock of North American Utilities Securities? A. I do not recall at the moment whether it was to apply only to the publicly held

—6,944—

8562 stock. I think the basis provided for a liquidation to all of the common stock, but the \$1 a share which The North American Company would receive would simply reduce the amount which it would have received upon the surrender of its second preferred stock, so that the effect is the same.

Q. This was the basis of the proposal, even though, in fact, a deficit existed with respect to asset value of the common stock? A. Yes.

Q. Was that plan, as so informally submitted, rejected by the Commission, informally? A. The Commission told

Herbert C. Freeman—By Respondents—Direct

8563

us, informally, that they had difficulty in approving a plan of that kind, and it has been dropped for the time being, at any rate.

Q. Does the operation of North American Utilities Securities interfere with the operation of the utility subsidiaries of The North American Company system? A. I would say not at all.

At the time when the company was active, there was of course a certain amount of time spent by certain members of the organization in following the investments, but it did not interfere with the relationship of The North American Company to its operating subsidiaries.

8564

Q. Now, you have also referred in your testimony to a

—6,945—

company which you designated 60 Broadway Corporation. In order that the record may be complete in this respect, would you very briefly give us the facts as to the business done by it, its dates of incorporation as a corporation, and North American's interest in it? A. 60 Broadway Building Corporation was incorporated in 1924, and we acquired the stock of the company in that year. There is one class of stock, \$100 par value.

8565

Q. Under the laws of what state was it incorporated, if you know? A. New York State, I am sure.

The first unit of the building owned by 60 Broadway had been erected in 1908, and it was later enlarged to 25 floors.

It is located in downtown New York, in the financial district, and 12 floors are now occupied by the Central Hanover Bank & Trust Company, under a lease to 1954, with certain

8566

Herbert C. Freeman—By Respondents—Direct

rights of renewal; and two complete floors and part of three other floors are occupied by The North American Company.

The building is well maintained, and I think it has a good standing in downtown buildings, in spite of its age; and it is in good operating condition.

At the present time it is about 98 per cent. occupied, which is unusually high for office buildings in the financial section of New York.

—6,946—

8567

Q. What was the original purpose of this investment? A. Investment, for one thing, and also as a hedge against possible rising rents, and it was particularly helpful in that respect in the late twenties and early nineteen thirties, when rents in the building were in the aggregate about 40 per cent. greater than they are at the present time.

8568

Now, from 1928 to 1934, when the aggregate rents paid by tenants other than The North American Company ranged from an average rent of \$4.42 to \$5.25 per square foot, The North American Company paid 60 Broadway from \$2.01 to \$2.58 per square foot; so that in that respect the ownership has resulted in substantial savings to The North American Company.

But during that 7-year period, in spite of those low rents which North American paid to 60 Broadway, it received dividends on its investment in the capital stock of 60 Broadway in each year except 1934. The dividends were equivalent to a return ranging from 8.5 per cent. in 1929 to 20 per cent. in 1931.

Q. As of a recent date, what was the total assets of 60 Broadway? A. The balance sheet at December 31, 1940 shows assets of \$4,871,832, with a mortgage of \$1,918,750.

Herbert C. Freeman—*By Respondents—Direct*

8569

The investment by the North American Company is \$350,000 in the stock, and an open account of \$1,659,023.

The net income for 1940, after payment of all fixed charges and taxes, but before payment of interest on the

—6,947—

debt to The North American Company, was \$49,293, which represents the return to North American on its entire investment, and represents about 2.5 per cent. on the investment.

Q. Now, is the investment in this enterprise large or small in relation to the total assets of The North American Company? A. It is quite small in relation to the assets; it is less than 1 per cent. of the total.

8570

Q. On a corporate basis? A. On a corporate basis.

Q. Does the operation of this company interfere with the operations of the utility subsidiaries of The North American Company? A. Not in any way. It does not prejudice the interests either of investors or consumers.

Q. Has it represented over a period of years a source of revenue to The North American Company? A. Yes, it has in every year paid a return to The North American Company.

8571

Q. And are you able to state the total assessed valuation of the property at a recent date? A. The present assessed valuation is \$3,375,000.

Q. Could this property be disposed of at this time without realization of substantial loss on North American's

—6,948—

investment? A. I would say that at this time there would inevitably be a substantial loss due to the depressed state of the real estate market in the financial district in New York.

8572

Herbert C. Freeman—By Respondents—Direct

The Examiner: Let us have a short recess at this time.

(Whereupon, a short recess was taken.)

By Mr. Hamilton:

8573

Q. You have also referred, from time to time, in your testimony to West Kentucky Coal Company. Will you state the date of its incorporation and the state under the laws of which it was incorporated? A. The West Kentucky Coal Company was incorporated in the State of New Jersey in 1905; and The North American Company acquired its interest in the company in that year.

Q. And why was this investment made? A. It was primarily with the idea that West Kentucky Coal Company would serve as a source of coal supply for the electric property in St. Louis, the intention being to barge the coal down the Ohio River into the Mississippi and then up to St. Louis.

It was found, however, that it had more value, really, as a defensive rather than as a direct source of supply for St. Louis.

8574

Q. Now will you explain what you mean by that observation? A. The ownership of the property represents a source

—6,949—

of supply upon which the companies could fall back, if necessity arose, and to what extent that has improved the bargaining position of the various companies in the purchase of their coal it is difficult to say.

At the present time, of course, with coal prices fixed, it probably does not operate in that way; but there is good reason to think it may have in the past.

Herbert C. Freeman—By Respondents—Direct

8575

Q. Now, in order to get a general idea of the properties operated by West Kentucky, will you state, very briefly, their location and general nature? A. The company owns mineral rights in 73,000 acres, 22,000 of which are held in fee simple.

The properties are in Union, Webster and Hopkins Counties, Kentucky, and there is also a leasehold interest in mineral rights in an additional 2,400 acres, in Union County.

The total present coal reserve approximates 400,000,000 tons, and there are four mines now in operation, two located at Sturgis and one each at Wheateroft and Earlington, Kentucky.

8576

Q. And the extent of the tonnage mined, if you will, in 1940? A. In 1940, the tonnage mined was 1,500,000 tons.

The present mines have a capacity of 2,000,000 tons a year on a single-shift basis, and 4,000,000 tons a year on a double-shift basis; and production has been gradually increasing

—6,950—

since October 1 due to mechanization and triple-shifting of the mines, particularly the North Diamond mine.

8577

Q. Does the company own certain miscellaneous properties related to the enterprise, in addition to the leaseholds or acreage to which you referred? A. It owns various houses and stores near the mines; six miles of railroad; rolling stock operated in connection with the mines, and various tugboats and tugs and barges used for hauling coal on the Ohio and Mississippi rivers.

Q. And the total book value of the assets, if you will, at December 31, 1940? A. The total book value at that date was \$19,160,829; and the gross revenues for 1940 were

8578

Herbert C. Freeman—By Respondents—Direct

\$3,814,169; and the net income for that year, before provision for preferred stock dividends, was \$42,837.

Q. What is the relation of North American's investment in the company to the total assets of North American, on a corporate basis? A. North American's investment in West Kentucky Coal Company represents $2\frac{1}{3}$ per cent. of the total corporate assets of the North American Company.

8579

Q. At one time in the history of West Kentucky, were there electric properties operated by the company? A. There was an electric property owned by a separate electric company, a subsidiary of West Kentucky—the name, I think,

—6,951—

was West Kentucky Electric Company—and it was sold to Kentucky Utilities Company in 1926. It did not integrate in any way with our other properties; it was an isolated operation.

Q. Why was it disposed of? A. I beg pardon?

8580

Q. Why was it disposed of? A. It was disposed of because it was an isolated operation. We did not want to hold it because it did not fit in with our other properties, and we made a contract with Kentucky Utilities for the supply of electricity and water for a period of years at the time of the sale.

Q. Has the existence of North American's investment in the company interfered with the operations of the utility subsidiaries of North American? A. I would say not at all.

Q. I believe you may have indicated that from time to time in the past there have been sales to North American subsidiaries. That is a fact, is it not? A. Yes.

Q. Sales of coal? A. Yes.

Herbert C. Freeman—By Respondents—Direct

8581

In the aggregate, they have not represented a major part of the business of the company, but there have been sales from time to time.

—6,952—

The Wisconsin properties have used some of the coal.

In the event of a stoppage of output, or any interference with the coal business, the ownership of that property might be extremely important to The North American Company.

Q. In what sense? A. As forming a source of supply of coal.

8582

Q. Has consideration been given from time to time to disposal of this investment? A. Yes, we have at times, within the last few years, given consideration to that. We have never had any real offers for the property. We have been approached once or twice by people who thought they might be in a position to acquire the property, but it has usually been on the basis of our retaining a very substantial investment in senior securities of some consolidated company.

Q. On the basis of your knowledge of the company, can North American's investment in West Kentucky be disposed of at this time without realization of substantial loss? A. I should think it was very doubtful whether we could sell it to advantage at this time.

8583

Q. By that you mean a loss would be realized? A. I think almost certainly.

In that connection, of course we have already substantially written down the amount of our advances to this company, and we are carrying the common stock at no value. The only value which we carry for our investment is rep-

—6,953—

8584

Herbert C. Freeman—By Respondents—Direct

resented by the preferred stock and the reduced amount of the advances.

Q. Now, as to the present staff of The North American Company, of how many persons is it comprised? A. There are eight officers, two assistant officers, and ninety-nine employes, of whom nineteen are employed in the stock transfer department.

Q. What is the function of that department? A. It handles all the transfers of stock, both preferred and common of The North American Company. The head of it is the transfer agent for the company. ↴

Q. Does it also include personnel engaged in such matters as payment of debenture coupons? A. Of the North American Company, yes. ↴

Q. There has been testimony in this proceeding previously as to the existence of a so-called 18th floor organization, which I believe had reference to certain personnel located on the 18th floor of 60 Broadway. What is the present status of this so-called 18th floor organization? A. It has been absorbed entirely by The North American Company. It was operated by officers of the various subsidiary companies located in New York for a few years, but it was more or less of an experiment and was found to be cumbersome, and we finally decided to absorb the duties and expense.

—6,954—

Q. And as of what date was this change effected? A. I think it was about the 1st of this year.

Q. Now with reference to the present officers of The North American Company, what are the facts with respect to periods of service? A. Eight out of the ten officers and as-

Herbert C. Freeman—By Respondents—Direct

8587

sistant officers have been associated with The North American Company for more than fourteen years, in each case. Three have been with The North American Company, or its subsidiaries, for more than twenty years. Those three are: Mr. Fogarty, who is chairman of the executive and finance committee, who has been with the company for thirty-eight years; Mr. Piske, vice-president and treasurer, twenty-nine years; and Mr. Ralph Moody, now a vice-president, twenty-eight years.

Q. In Mr. Moody's case, does that include service with various subsidiaries of The North American Company? A. Yes, with the Wisconsin Michigan group of companies. He has been in the New York office now for something over a year.

The treasurer, who retired the beginning of this year, had had thirty-five years' service with the company.

Q. Have you any data as to the rating in financial manuals of recognized standing of the debentures issued by The North American Company? A. The three series of debentures of The North American Company now outstanding

—6,955—

8589

have "A" rating in Standard Statistics, Poor's and Moody's.

Q. In general, what does that rating signify? A. The rating of "A", in general, in each case denotes investment rating.

Q. Now, as to the preferred stocks of The North American Company, have you any data as to their ratings? A. Both series of preferred stock have been given a "2*" rating by Standard Statistics, the "2" denoting stocks relatively well situated, marketwise, and the "*" denoting so-called storm cellar, or defensive stocks.

8590

Herbert C. Freeman—By Respondents—Direct

Q. Now when were these debentures to which you have referred offered? A. Well, they were offered publicly early in 1939.

Q. And at what price? A. At 101 $\frac{3}{4}$ in the case of the 3 $\frac{1}{2}$ per cent. debentures, 101 in the case of the 3 $\frac{3}{4}$'s, and 101 $\frac{1}{4}$ in the case of the 4's.

Q. Are all three series listed on the New York Stock Exchange? A. They are all listed, and the market range since the date of listing has been from 98 to 107 $\frac{3}{4}$ for the 3 $\frac{1}{2}$'s, from 97 $\frac{1}{2}$ to 106 $\frac{3}{4}$ for the 3 $\frac{3}{4}$'s, and from 99 to 108 $\frac{7}{8}$ for the 4's.

8591 The call prices are, at the present time, 103 for the 3 $\frac{1}{2}$'s,

—6,956—

102 $\frac{1}{2}$ for the 3 $\frac{3}{4}$'s, and 103 $\frac{1}{2}$ for the 4's.

In connection with the prices of those debentures, and the yields, it should be mentioned that the 3 $\frac{1}{2}$'s are due in 1949, the 3 $\frac{3}{4}$'s in 1954, and the 4's in 1959.

Q. Now, as to the outstanding 5 $\frac{3}{4}$ per cent. preferred stock of the company, when was it offered and at what price?

8592 A. It also was offered early in 1939, at \$52 per share, and it is listed on the New York Stock Exchange, and the range of market prices since the date of listing has been from 47 $\frac{1}{4}$ to 59. The call price of that stock is 55.

Q. As to the outstanding debentures, are there sinking funds in each case applicable to each series? A. There are sinking funds for each of the issues, requiring the retirement of 1 $\frac{1}{2}$ per cent. per year, commencing in 1942, of the aggregate principal amount issued of each series of debentures.

Q. Now, I do not believe you have stated the yields to maturity on the debentures based on the public offering price.

Herbert C. Freeman—By Respondents—Direct

8593

Would you do that? A. The 3½'s, the price for the 3½'s represented a yield to maturity at the offering price of 3.29 per cent., the price for the 3¾'s represented a yield to maturity of 3.66 per cent., and for the 4's, of 3.91 per cent.

Q. At or about the time of issue of the debentures to which you referred, were previously outstanding debentures

—6,957—

of The North American Company redeemed? A. Yes, sir, the 5 per cent. debentures which were then outstanding were redeemed at that time.

8594

Q. And have you any data to indicate the market acceptance of those debentures? A. The call price of those debentures, in 1938, was 103½, and they did not sell below that call price after May 6, 1938. They reached a high of 107¾ in October, 1938. This latter figure represented a yield to maturity of 4.48 per cent.

Q. For how long a period have the annual reports to stockholders of The North American Company been accompanied by reports of independent auditors? A. Since 1903, the annual reports have been accompanied by reports of independent auditors.

8595

Q. Continuously? A. Continuously, yes.

Q. Now, with respect to other practices to disclosure of information, when were consolidated financial statements first published by The North American Company? A. The accounts were first presented in consolidated form in the report for 1920, and that practice has been continued since that time.

Q. And at what date were consolidated financial statements first furnished to stockholders in annual reports? A.

—6,955—

8596 *Herbert C. Freeman—By Respondents—Direct.*

Perhaps I misunderstood your previous question. I thought I was answering that in saying that they had first been presented in consolidated form in 1920, and continuously thereafter.

Q. Has the company for many years maintained a policy of having audits made by independent auditors of the books and accounts of subsidiaries? A. That practice also was started in 1920, and the reports of certain of the subsidiaries have been accompanied by auditors reports since 1932, and 8597 in other cases since 1934. By that I mean the reports to their stockholders.

Q. But in all cases since 1934, is that correct? A. Yes.

Q. For how long a period has North American distributed annual reports to its own stockholders? A. It has distributed annual reports for its entire period of existence, that is, for 51 years. The first annual report, which was for the year ending May 31, 1891, exists in typewritten form only, as far as we can find at this time. The only copy is a typewritten copy, and it was apparently read to the stockholders at the annual meeting on June 17, 1891.

8598 The second report for the year ended May 31, 1892, is in printed form, and includes the president's letter, commenting on activities and conditions of business during the year, and

—6,959—
gives a treasurer's statement showing the assets and liabilities of the company and a condensed income account.

Q. In what detail are annual reports currently submitted by The North American Company to its stockholders? A. The current annual reports contain a letter by the president referring to the operations and business of the company and

Herbert C. Freeman—By Respondents—Direct

8599

of its subsidiaries, consolidated accounts of the company and its subsidiaries of which 75 per cent. of the common stock and 50 per cent. of the voting control is owned, corporate accounts of the company, and statements of the outstanding funded debt and preferred stocks of the company and its subsidiaries, statistical statements of the properties and territories served by the subsidiaries, and statistical information with regard to the important minority investments of the company.

Q. In addition to the annual reports distributed to North American stockholders, have there also from time to time been interim reports which have been so distributed? A. There have been quarterly reports since September, 1924, and since 1928 they have been described as the president's quarterly letter. These reports have included twelve months' earnings statements, and up to November, 1934, balance sheets also were given, but the balance sheets were discontinued after November, 1934.

Q. Now, generally, what has been the substance of the

—6,960—

matters covered by the so-called president's letter to which you have referred? A. The president's letter gives comments on the business and operations of the company and its subsidiaries for the quarter, and comparative income statements, which for several years were statements for the twelve months ended, but more recently they have given in addition to the twelve months ended income figures for the quarter ended.

They also give lists of subsidiaries and statistics, and similar statistics for the companies in which we have important minority interests.

8601

8602 *Herbert C. Freeman—By Respondents—Direct*

Q. Is it the practice of North American to address letters to stockholders whose holdings are transferred out of their name? A. Whenever a stockholder's account is closed, a letter is sent to him asking if the disposal of his stock has been due to any of several conditions, and a form is sent to him for him to check off the reason for the disposal of his stock and to add any comments he may wish to add, which is to be folded and mailed back to the company.

8603 Q. Has this been done for many years? A. It has been done for about 16 years, and the average of replies during that period has been about 47½ per cent.

Q. In general, what is the policy of the company, North American, as to furnishing stockholders with information?

—6,961—

A. We have at all times been willing to give stockholders any information they might ask for.

We receive a number of inquiries through the mail. We also have interviews from time to time with the representatives of the standard services and other investment counsel, advisory services—

8604 Q. (Interposing) That is financial services? A. Financial services—and we have telephone calls, and they are all answered; every letter that comes from a stockholder is answered.

Q. And has that practice been pursued for many years? A. Certainly as long as I have any knowledge, and knowing Mr. Dame, I am sure it goes back at least to 1920. I cannot speak about anything earlier than that.

Q. What policy has been pursued with respect to annual reports to stockholders by subsidiary companies, public util-

Herbert C. Freeman—By Respondents—Direct

8605

ity subsidiaries of The North American Company? A. The Wisconsin Electric Power Company, that is, the company which formerly was the Milwaukee Electric Railway and Light Company, has issued annual reports to its stockholders since 1920.

Q. Well, without going into detail on the particular companies, has there been a general policy with respect to annual reports submitted by the public utility subsidiaries to their

—6,962—

stockholders? A. For a number of years it has been the practice for the subsidiaries to send annual reports to their stockholders.

Q. My question really relates to a North American policy as to the type of report, detailed information, and so on.

Has there been such a policy? A. Yes, the policy has been for several years' past, for those reports to consist of the regular accounts, with certificates of the auditors, and comments by the president of the company upon the business of the company.

Q. Now, in addition to the specific items which you have already referred to, is it the practice of The North American Company to furnish a detailed statement at its annual meetings by the president of the company? A. That has been a practice for several years past. The statement, which is read to those stockholders who are present at the meeting, is then printed and distributed to the whole list of stockholders.

8607

Q. For how long a period have securities of The North American Company been listed on the New York Stock Exchange? A. The stock of the company has been listed since 1890, and all of the presently outstanding securities are

8608

Herbert C. Freeman—By Respondents—Direct

listed on the New York Stock Exchange, and registered under the Exchange Act of 1934. —6,963—

Q. Has that policy of listing involved many applications over a period of years? A. During the period during which we were paying stock dividends, that is, from 1923 to 1934, we were listing additional common stock every three months, and as a result of that our agreement with the Stock Exchange and the extent of information furnished has been brought up to date very promptly, up to that time; in fact, I think we have to some extent been the pioneers in the adoption of a number of requirements by the New York Stock Exchange.

Q. Have securities of certain subsidiaries of The North American Company been listed on the New York Stock Exchange for periods of many years? A. The securities of Wisconsin Electric Power, certain securities, have been listed since 1896, and of the Union Electric Company of Missouri, since 1906.

Q. Now, in addition to these sources of information which you have already referred to, are certain reports submitted to insurance companies and other institutional investors? A. There are reports, which are generally described as the confidential reports to insurance companies, which are furnished every year by all operating subsidiaries with the funded debt outstanding in the hands of the public.

Q. Are these reports detailed in nature? A. Yes, they —6,964— are rather more detailed than the ordinary annual reports. They classify the income and expenses, and also classify the property accounts and the depreciation reserve accounts.

8609

Herbert C. Freeman—By Respondents—Direct

8611

They give details as to the generating capacity and of projected improvements, and matters of that kind.

Q. What is the function of this report? A. It is to enable institutional investors, who generally hold these senior securities of these companies in large amounts, to keep themselves currently advised of the situation of the companies.

Q. Are certain of the bonds issued by various subsidiary companies of The North American Company qualified as legal investments for savings banks in certain states? A. Yes, some of the outstanding bonds are qualified.

8612

Q. Do these qualifications involve the furnishing of annual reports of various nature to the appropriate authorities? A. Yes; there is, of course, the initial qualification and then the subsequent reports from time to time.

Mr. Hamilton: Off the record.

(Discussion off the record.)

The Examiner: All right, we will recess until ten o'clock tomorrow morning.

8613

(Whereupon, at 4:10 o'clock, p. m., the hearing was recessed, to reconvene at 10:00 o'clock, a. m., Tuesday, April 8, 1940.)

—6,965—